Bobby Boye: Convict, Advisor and Fraud

16 September 2014. Updated 14 October 2016

Liga ba pajina ida ne'e iha Tetum

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Background

Timor-Leste is the most petroleum-export-dependent country in the world, with 95% of state revenues coming from international companies who have contracted with Timor-Leste to extract and market its oil and gas from under the Timor Sea. However, like all for-profit corporations, the companies' primary goal is to maximize returns to their shareholders. One way to do this is to pay as few taxes and royalties as they can get away with, as described on La'o Hamutuk's web page Making the Oil Companies Pay what they Owe.

In late 2009, Norway's aid program recruited Bobby Boye, who said he was an expert in petroleum tax law, to help Timor-Leste receive all the money it is entitled to. For the next three years, Boye advised and defrauded Timor-Leste's Ministry of Finance, as detailed below.

Bobby Boye arrested and charged

THE FBI FEDERAL BUREAU OF INVESTIGATION

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Bergen County Man Arrested for Defrauding Foreign Nation of More Than $3.5 Million

U.S. Attorney's Office	District of New Jersey
June 19, 2014	(973) 645-2888

NEWARK, NJ—A Bergen County, New Jersey man who was re-entering the United States from a trip abroad was arrested today at Newark International Airport on charges that he allegedly orchestrated a scheme to defraud a foreign nation of more than $3.5 million, U.S. Attorney Paul J. Fishman announced today.

Bobby Boye, a/k/a "Bobby Ajiboye," a/k/a "Bobby Aji-Boye," 50, of Franklin Lakes, New Jersey, is charged by complaint with one count of wire fraud conspiracy and six counts of wire fraud. He is scheduled to make his initial appearance tomorrow before U.S. Magistrate Judge Mark Falk in Newark federal court.

On 19 June 2014, U.S. federal agents arrested Bobby Boye in New Jersey, USA, on charges of defrauding Timor-Leste of more than $3.5 million dollars. According to the FBI, Boye "allegedly deceived [Timor-Leste] representatives into awarding the lucrative contract to Opus & Best Services LLC, a sham New York law and accounting firm that, unbeknownst to [Timor-Leste], was secretly controlled by Boye. ...

"Between June 2012 and December 2012, [Timor-Leste] wired more than $3.5 million to Opus & Best's New York business checking account, which was controlled by Boye. He used the money to purchase four properties in New Jersey for more than $1.5 million in cash, three luxury vehicles (a 2012 Bentley for $172,000, a 2012 Range Rover for $100,983), and a 2011 Rolls Royce for $215,000, and two designer watches for almost $20,000.

"The [seven] conspiracy and wire fraud counts with which Boye is charged each carry a maximum potential penalty of 20 years in prison and a fine of up to $250,000 or twice the gain or loss from the offense."

The FBI filed a 10-page Criminal Complaint with the court, and local papers reported the arrest. Boye was booked and held in Bergen County jail.

After one night in jail, Bobby Boye was brought before U.S. Magistrate Judge Mark Falk. In a ten-minute hearing, Boye posted his home in Franklin Lakes, New Jersey (right) for the $1.5 million bond, and the judge released him conditionally. Boye had purchased the home in January 2012 for $1.9 million (see 2011 video ad for the house on YouTube). Boye had been trying to sell it since October 2013 for $2.7 million, but it was taken off the market a few days after he was arrested.

The conditions of Boye's pre-trial release, similar to T.I.R. in Timor-Leste, include surrendering his travel documents, not leaving New Jersey without permission, remaining at home except for specified reasons, allowing authorities to monitor his position by GPS, and not having "direct or indirect contact with anyone who is or may be a victim or potential witness."

At a hearing on 2 July, Magistrate Judge Cathy L. Waldor continued (suspended proceedings) the case for 60 days to allow prosecutors and defense attorneys to negotiate a plea bargain "in the interests of justice" and avoid the costs of a trial. La'o Hamutuk wrote to prosecutor Shirley Emehelu on 21 July, urging her to bring the case to trial in order to reveal more information about violations of Timor-Leste and Norwegian law, as well as who may have conspired with Boye. However, on 12 August, Judge Waldor extended the continuance because "both the United States and the defendant desire additional time to negotiate a plea agreement, which would render any grand jury proceedings and any subsequent trial of this matter unnecessary." Judge Waldor extended the continuance for two months more on 21 October. (A new delay has been ordered every two months; see below.)

At the end of October 2014, U.S. attorney Paul Fishman, from the civil division and working with prosecutor Shirley Emehelu, wrote a letter to Judge Waldor with supporting documents showing that the house at 720 Apple Ridge Road should not be used as Boye's bond because it does not fully belong to him. Prior to his arrest in June, Boye had been negotiating a divorce with his wife Ediltruda Kalikawes, and Family Court had stipulated that the house was to be sold, with the money to be divided between them. Boye's defense attorney, the prosecutor and Judge Waldor agreed that Boye should post $500,000 cash bond (when the house is sold, as guaranteed by Ms. Kalikawes' attorney) instead of forfeiting the house, and the judge revised the conditions for his Home Detention. The house was sold on 18 November for $1,850,000. In December 2015, as Boye began serving his prison sentence, the court returned the $500,000 to "a constructive trust for the satisfaction of marital federal tax obligations and for the support and maintenance of Defendant's two minor children."

Fallout from Boye's activities has rippled far and wide. On 18 October, Timor-Leste police arrested Portuguese advisor, consultant and businessman Tiago Guerra, a long-time Dili resident, on suspicion of "money-laundering" $800,000 that he had transferred from Timor-Leste. His wife Chan Fong Fong Guerra was also detained but is now out of prison but not allowed to leave Timor-Leste, although neither has yet been legally charged. There are many rumors (and few confirmed facts) that these arrests are related to activities of their former neighbor, Bobby Boye. Guerra remained in prison for eight months without having had a chance to defend himself. His supporters have created a blog and a Facebook page to urge "that he is treated fairly and his rights are protected and guaranteed." On 15 June 2015, Timor-Leste's Court of Appeals ordered Guerra released from pre-trial imprisonment, but he is still under "TIR" and must stay in Timor-Leste and report to the authorities every week, because the charges against him are still pending. This situation was unchanged through April 2016. In June 2016, Guerra was finally allowed to present his response to the prosecutor's office, but he and his wife are still barred from leaving Timor-Leste

Timor-Leste's prosecutors and judges have little expertise in complex financial activities, and the judicial system is in disarray. On 24 October, after Singapore arbitrators ruled against Timor-Leste in several Petroleum Tax cases (some of which were initiated by Boye's work in the Ministry of Finance), Prime Minister Xanana Gusmão persuaded

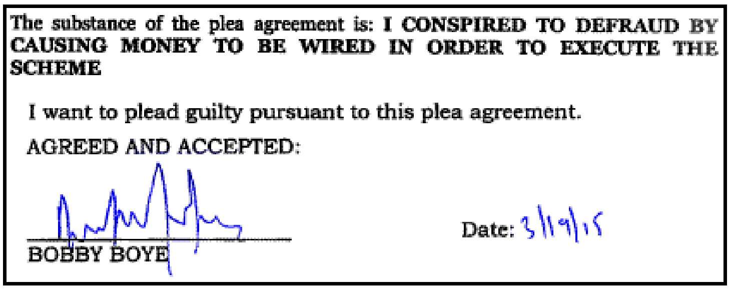
Parliament and the Council of Ministers to immediately terminate the contracts of seven foreign judges, prosecutors and investigators because of *force majeure* due to their alleged errors. Much has been said and written about this controversy, the Constitutional issues it raises, and its effects on judicial operations, rule of law, nationalism, foreign investment and international relations, but this is a separate issue from the Bobby Boye case.

On 12 November 2014, Bobby Boye filed an affidavit with Judge Waldor claiming that he had no money to pay his defense attorney. After a one-minute hearing, the Judge appointed K. Anthony Thomas from the Office of the Federal Public Defender to represent Boye. This office provides taxpayer-paid lawyers to defend people who are too impoverished to afford to pay for their own defense. Given Boye's history of hiding assets and claiming poverty, we wonder if it is justified. On 16 January 2015, Barbara A. Ward was added to the case as counsel to the U.S. government "with regard to the forfeiture matters," a process which was repeated after his April guilty plea.

On 30 December 2014, Judge Michael A. Hammer delayed the proceedings for another 60 days to wait for a plea-bargain to be negotiated, and on 18 February 2015, Judge Waldor ordered another continuance, until 22 April, because "plea negotiations are currently in process." Judge Waldor ordered another 60-day continuance on 16 April. Unlike the five previous continuances, her order indicated progress: "The parties have entered into a plea agreement and desire additional time for the entry of defendant's guilty plea, which would render any grand jury proceedings and any subsequent trial of this matter unnecessary."

"I conspired to defraud..."

[Bele hare Rekoñese sala - Boye tenke selu fila fali tokon $3.5 ba TL.]


The substance of the plea agreement is: I CONSPIRED TO DEFRAUD BY CAUSING MONEY TO BE WIRED IN ORDER TO EXECUTE THE SCHEME

I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:

BOBBY BOYE

Date: 3/19/15

On 12 March 2015, federal prosecutors wrote an eight-page letter to Boye and his public defender attorney describing a plea agreement, and Boye signed the letter a week later. On 28 April, Boye applied to the Court for permission to enter a guilty plea to one count of conspiracy to commit wire fraud, as charged in the Prosecutor's "information" document. After Boye's formal waiver of his rights to indictment and trial, Boye pled guilty in a 40-minute hearing before Judge Freda L. Wolfson in Federal District Court in Trenton, New Jersey, USA. Boye will be sentenced on 13 August (later delayed until 15 October) and could receive up to 20 years in prison. The FBI issued a press release, and the guilty plea was covered in the U.S. legal and local New Jersey and Bergen County newspapers. Timor-Leste's government issued a press release.

The Prosecutor's ten-page information sheet, which Boye agreed to, describes his work in Timor-Leste (called "Country A") and creation of the sham "established, multinational law and accounting firm" Opus & Best (of which Boye was the sole member). It says that between March 2012 and May 2013, Boye "did knowingly and intentionally conspire and agree with others, known and unknown, to devise a scheme and artifice to defraud Country A by means of materially false and fraudulent pretenses, representations, and promises ...". Their objective was "for defendant BOYE and others to enrich themselves by fraudulently obtaining lucrative consulting contracts from Country A." Boye "caused" his (now ex-)wife Ediltruda Kalikawes (who is not named or charged) "to create Opus & Best email accounts, including one for a purported partner" 'Dominic Lucas' (also not named or charged -- it's unclear if he actually exists). Boye's bid for contracts with Timor-Leste "contained a number of false statements and material representations that were intended to give Country A the misimpression that Opus & Best was a legitimate, established firm" operating in several continents for many years with "first class talent of attorneys, accountants and economists."

However, the prosecutor writes, "In reality, defendant BOYE created Opus & Best for the purpose of submitting the fraudulent Bid Documents. Moreover, Opus & Best employed no one other than defendant BOYE..." Boye also "paid his [wife] to create a website for Opus & Best which contained numerous misrepresentations ..." (The website (left) remained online through mid 2015.) The prosecutor relates how Boye "exploited his membership on the Bid Review Committee" to "steer" contracts to Opus & Best and then caused Country A to wire $3,510,000 to Boye's bank account between June and December 2012.

In December 2012, Boye invented "Opus & Best Hong Kong" and, with a Hong Kong law firm, tried to get $250,000 more in April 2013. "Country

A did not accept the proposal, and defendant BOYE left Country A shortly thereafter." At the end of May, 'Dominic Lucas' unsuccessfully invoiced Timor-Leste for a $630,000 "final payment."

The prosecutor describes how "BOYE diverted" the $3.5 million wired by Timor-Leste to Opus & Best "for his own personal use," including purchase of four properties, three luxury cars and two designer watches. Boye agreed to forfeit these properties, cars and watches, as well as "$4,233,015.42, representing the amount of proceeds obtained as a result of the offense of conviction."

Boye signed a statement that "I want to plead guilty pursuant to this Plea Agreement." He admits guilt to one count of conspiracy to commit wire fraud, which carries a maximum sentence of 20 years in prison and a fine of up to twice the amount of either his ill-gotten gains or the victims' losses, whichever is greater. "In addition, BOBBY BOYE agrees to make full restitution for all losses resulting from the offense of conviction or from the scheme, conspiracy, or pattern of criminal activity underlying the offense, to [Timor-Leste] in the amount of $3,510,000."

La'o Hamutuk believes that the "pattern of criminal activity underlying the offense" could include payments to Boye for jobs he obtained here under false pretenses. Furthermore, if some of the tax assessments he initiated against oil companies turn out not to be valid, Timor-Leste's legal and other expenditures for them could also be part of this pattern. Boye may have sparked the cases as part of his confidence game to ingratiate himself with Timorese leaders, knowing that the companies were likely to pay and then appeal. These losses could add up to much more than $3.51 million, and Bobby Boye should be required to reimburse Timor-Leste for all these costs. The Plea Agreement does not prevent further administrative or civil cases -- we wonder if Boye will be disbarred from legal practice or if Timor-Leste will file a civil suit against him.

Although the crime of conspiracy to commit wire fraud carries a 20-year maximum sentence, the Plea Agreement grades it as "offense level 24" under the Sentencing Guidelines, giving him credit for "accepting responsibility." According to the Sentencing Table, and depending on whether Boye's 2006 conviction is considered, he could serve four to six years. On 8 July 2015, Judge Freda L. Wolfson agreed to the request from the prosecutors to delay the sentencing until 15 October (at 11:00 am in Courtroom 5E, US Federal Court, Trenton New Jersey) to allow the parties more time to prepare the Presentence Report.

On 15 July 2015, La'o Hamutuk wrote to the prosecutors to explain that Boye should fully repay Timor-Leste for everything it lost from Boye's scheme. As our letter explains, if the arbitration panel determines that $400 million of the $440 million in tax assessments are not valid, and orders Timor-Leste to pay interest, penalties and the companies' legal costs, this could be $176,000,000 or more, as follows:

No.	Activity	Estimated loss to Timor-Leste
1	Salary and consulting fees paid to Boye by the Norwegian government	$250,000
2	Salary and consulting fees paid to Boye by the Timor-Leste government (some were paid while he was also being paid by Norway)	$500,000
3	Wire transfers to Boye's fraudulent company	$3,510,000
4	Estimated amount Timor-Leste paid (to law firms DLA Piper, Arent Fox and others) for legal and other expenses to assess and control damage from the unfounded tax cases initiated by Boye	$10,000,000
5	Interest and penalties on the portion of $440 million in tax assessments that companies paid under protest which the arbitration panel could order Timor-Leste to return (assumed to be $400 million for this estimate). This assumes the same rate of interest and penalties that Timor-Leste assessed the companies for underpayment, 1 percent per month, for three years. It could be more or less. We do not know the exact amount assessed, but a recent ConocoPhillips report to stock exchange regulators says: *"ConocoPhillips served a Notice of Arbitration on the Timor-Leste Minister of Finance in October 2012 for outstanding disputes related to a series of tax assessments. As of March 31, 2015, ConocoPhillips has paid, under protest, tax assessments totaling approximately **$237 million,** which are primarily recorded in the "Investments and long-term receivables" line on our consolidated balance sheet. The*	$172,310,000

	arbitration hearing was conducted in Singapore in June 2014 under the United Nations Commission on International Trade Laws (UNCITRAL) arbitration rules, pursuant to the terms of the Tax Stability Agreement with the Timor-Leste government. Post-hearing briefs from both parties were filed in August 2014. We are now awaiting the Tribunal's decision. Future impacts on our business are not known at this time." ConocoPhillips owns 57% of the Bayu-Undan joint venture, so other partners' assessments are about $179 million more. At Boye's suggestion, Timor-Leste also assessed back taxes from other companies, including $25 million paid under protest by Woodside in relation to a different project.	
6	Minus interest Timor-Leste earned by investing $400 million in its Petroleum Fund from mid-2012 to mid-2015, during which the Petroleum Fund earned a cumulative nominal return of 16.4%	-$65,490,000
7	Legal fees paid by oil companies to defend against excess assessments, which the arbitration panel may order Timor-Leste to reimburse	$15,000,000
8	Additional penalties for negligence which the panel could assess against Timor-Leste (assumed at 10% of disallowed amount). This amount could be higher, or zero. Timor-Leste charged the companies a 100% penalty for underpayments it said were grossly negligent.	$40,000,000
	Estimated total	**$176,080,000**

The governments of Norway and Timor-Leste have more accurate information on items 1, 2 and 4. The arbitration panel's will decide items 5, 7 and 8, so a more precise figure will be available in the future. In addition to financial losses, Boye's conspiracy damaged the reputation and efficiency of Timor-Leste's leaders, led to violations of the Constitution and affected the nation's reputation among both investors and potential scammers.

On 16 July, Judge Wolfson ordered Boye to forfeit $4,233,015.42 to U.S. authorities, as well as three properties. Boye's cars and other items will be sold to help raise the money. The order, which was agreed to by prosecution and defense attorneys and Boye himself, resulted in a public notice which was published on 8 August. Anyone claiming interest in any of the property which Boye will forfeit has 60 days from then to petition the court.

UNITED STATES OF AMERICA
vs.
BOBBY BOYE
a/k/a Bobby Ajiboye
a/k/a Bobby Aji-Boye
DEFT. PRESENT

OFFICE: TRENTON
Judge Freda L. Wolfson, U.S.D.J.
October 15, 2015

Nature of Proceedings: SENTENCING ON Count One of the Information.
Imprisonment: 72 Months
Supervised Release: 3 Years with special conditions.
Restitution:$3,510,000.00.(interest waived)

Boye appeared before Judge Wolfson in Trenton Federal Court on 15 October 2015 and was sentenced (transcript) to a six-year prison term, followed by three years of supervised release. He was ordered to begin serving his prison time on 30 November, probably at the Fort Dix Federal Correctional Institution in New Jersey, a former U.S Army base. Several New Jersey media reported on the sentencing (Mahwah man gets six-year sentence for defrauding tiny Asian Nation, $3.5M international con game nets NJ man 6 years in prison), although they added little to the prosecutor's press release. Boye was ordered to pay $3.51 million in restitution to the U.S. Treasury, which will distribute it to Timor-Leste's attorney Pierre-Richard Prosper of the Arent Fox law firm. The payment is due immediately, although a payment schedule may be worked out. The Court generously did not require Boye to pay interest (which could have been a million dollars or more) and ignored La'o Hamutuk's explanation that Boye's crimes cost Timor-Leste at least fifty times more than $3.5 million. La'o Hamutuk blogged on the sentence.

On 27 October, prosecutors published a Notice of Forfeiture listing the three properties which Boye will forfeit: 25 Crescent Hollow Court, Ramsey, NJ; 36 Rosewood Court, North Haledon, NJ; and 140 Grove Street, Elizabeth, NJ. Anyone else who claims these properties has two months to protest.

Boye was sentenced on 15 October 2015. Here's part of what Judge Freda Wolfson said. The complete transcript is at www.laohamutuk.org/econ/corruption/Boye/Appeal/SentenceTranscript15Oct2015.pdf

It is correct that the victim in this case was a very young and poor nation that relied principally upon this asset that it had, its natural resource of petroleum, and that it was using and relying on advisors to assist them with it, and also Norway that was involved in this endeavor and locates the defendant.

The fraud here was really of such a major level that I can't say enough about it in that Mr. Boye was given a wonderful opportunity. There was employment, yes, and he was going to be paid well for that employment. But it was more than just the salary he was going to get. He accepted a position that was really of a new kind that was going to assist this country.

In early December, Attorney Zahid Quraishi notified the court that Boye owes the Crescent Hollow Condominium Association at least $166,861 in relation to 25 Crescent Hollow Court, mostly from damage when a frozen pipe broke and flooded nearby property in February 2015, while the house was empty. A settlement was accepted in June 2016, and the Association could receive about $70,000 in attorney's fees and uninsured damages from Boye's assets.

> And even today Mr. Boye says how fond he was of the country and how well he was treated by the government. Obviously, particularly because of the kind of small country it was and where they were going and the number of limited people involved in assisting them, this position of trust was obviously fostered and created at an early stage. This country welcomed him and made him one of their own which makes even more egregious the fraud that was then committed upon them. It wasn't simply some stranger committing the fraud that we sometimes get in bid-rigging or things of this nature, but this was one of their own at this point who decided to abuse that trust.

Jornal Independente 8 Maiu 2015 pajina 1.

Kazu Bobby, MP Investiga Inisial DG –MF iha TL

On 7-8 May 2015, Dili media published confused articles quoting the Prosecutor-General that his office was investigating two foreigners, "DG" (or TG) and "MF" (or FF) in relation to Boye's admission of guilt. We do not know if this refers to Tiago Guerra and Fong Fong. Despite public calls to investigate Timorese citizens, including public officials, who may have been part of Boye's conspiracy, the prosecutor only mentioned foreigners. Guerra had been arrested in October 2014 and was imprisoned until July 2015, without formal charges being filed. Guerra maintains his innocence and has no chance to defend himself in court until June 2016, but is still barred from leaving Timor-Leste. Like everyone else, he should be presumed innocent until proven guilty. (See above for more on the Guerra case.)

Boye appeals sentence, starts serving time, loses appeal

On 16 November 2015, Boye hired attorney Michael Confusione to represent him, terminating public defender K Anthony Thomas. Boye explained that Thomas had not responded to his wish to appeal the Final Judgment, and he needed time to raise funds to hire a private lawyer. Confusione requested a 30-day extension to the time limit for filing an appeal. On 18 November, Boye paid the court $505 in appeal fees.

The court was notified of Boye's appeal on 16 November and received arguments on 21 December about the requested extension of time to file, which was granted by Judge Wolfson on 12 January 2016.

On 25 November, Boye's new attorney filed a motion with the U.S. Court of Appeals for the Third District explaining that Boye intends to argue that his six-year sentence should be reduced to "as little as two months imprisonment, and possibly non-imprisonment," and asked the court to process their appeal quickly, as Boye had been ordered to report for prision 30 November. They claimed that the actual loss to Timor-Leste was much less than the $3.51 million fraud because Timor-Leste had received legal services in return for the money they paid, and that therefore a much shorter sentence was appropriate. Download key documents in this process with both sides' arguments.

General Docket
Third Circuit Court of Appeals

Court of Appeals Docket #: 15-3779 **Docketed:** 11/18/2015
USA v. Bobby Boye
Appeal From: United States District Court for the District of New Jersey
Fee Status: Paid

Case Type Information:
1) criminal
2) Sentence Appeal
3) null

Originating Court Information:
District: 0312-3 : 3:15-cr-00196-001
Court Reporter: Vincent E. Russoniello
Trial Judge: Freda L. Wolfson, U.S. District Judge
Date Filed: 04/28/2015

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:
10/15/2015	10/15/2015	11/16/2015

11/27/2015	Notice received from the district court that the docketing and filing fees were paid by the appellant on 11/18/2015. (LML)
12/01/2015	ORDER (KRAUSE, Circuit Judge) Motion by Appellant Bobby Boye to Expedite Briefing Schedule and disposition is denied, filed. Panel No.: BCO-021-E. Krause, Authoring Judge. (TMM)
12/03/2015	ECF FILER: ENTRY OF APPEARANCE from Glenn Moramarco on behalf of Appellee(s) USA. (GJM)
12/21/2015	ECF FILER: TRANSCRIPT PURCHASE ORDER (Part III) filed by for the date(s) of April 28, 2015 October 15, 2015. Transcripts were filed in the District Court on 12/21/2015. (VER)
12/21/2015	BRIEFING NOTICE ISSUED. Brief on behalf of Appellant Bobby Boye due on or before 01/20/2016. Appendix due on or before 01/20/2016. Presentence Report due on or before 01/20/2016. (TMM)
01/12/2016	Appellant Bobby Boye verbally granted an extension of time to file brief & appendix until 02/03/2016. Presentence Report due on or before 02/03/2016 pursuant to Third Cir. LAR 31.4. (TMM)
01/12/2016	ECF FILER: MOTION filed by Appellee USA to enforce appellate waiver, to stay briefing. Certificate of Service dated 01/12/2016. (GJM)
01/21/2016	ECF FILER: Response filed by Appellant Bobby Boye to Government's Motion for Summary Dismissal. Certificate of Service dated 01/21/2016.--[Edited 01/21/2016 by TMM] (MJC)
01/21/2016	ECF FILER: Reply by Appellee USA to Appellant's Opposition to the Government's Motion for Summary Dismissal, filed. Certificate of Service dated 01/21/2016.--[Edited 01/21/2016 by TMM] (GJM)
01/21/2016	ECF FILER: Sur-Reply by Appellant's In Further Opposition to Appellees Motion for Summary Dismissal. Certificate of Service dated 01/21/2016.--[Edited 01/21/2016 by PDB] (MJC)
01/25/2016	ECF FILER: SEALED ELECTRONIC PRESENTENCE REPORT on behalf of Appellant Bobby Boye, filed. Certificate of Service dated 01/25/2016. This document will be SENT TO THE MERITS PANEL if/when applicable. (MJC)
01/25/2016	ECF FILER: ELECTRONIC BRIEF with Volume I of Appendix attached on behalf of Appellant Bobby Boye, filed. Certificate of Service dated 01/25/2016 by ECF. (MJC)
01/25/2016	ECF FILER: ELECTRONIC APPENDIX on behalf of Appellant Bobby Boye, filed. Certificate of Service dated 01/25/2016 by ECF. (MJC)
01/29/2016	ORDER (Clerk) The foregoing motion is granted to the extent it seeks to stay the briefing schedule. The motion to enforce appellate waiver and for summary affirmance, response, reply and sur-reply are referred to a motions panel. If the motion to enforce is denied or referred to the merits panel, Appellee's brief must be filed and served within 30 days of the date of the order denying or referring the motion, filed. (TMM)
01/28/2016	ORDER (FISHER, JORDAN and VANASKIE, Circuit Judges) Motion to Enforce Appellate Waiver and for Summary Affirmance is granted, filed. Panel ID: CCO-042 Judge: VANASKIE Authoring (TMM)

The U.S. Attorney disagreed, explaining that Boye had "lied to his victim that those services would be provided by licensed attorneys and accountants." They also argued against reducing the sentence, urging that the appeal process be terminated because the plea bargain agreement had effectively waived Boye's right to appeal.

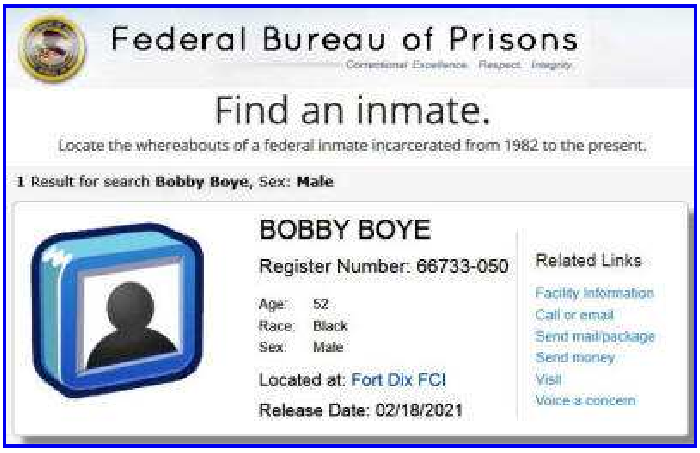
On 21 December, the Appellate Court Clerk ordered Boye to file the Appeal Brief by 21 January 2016, the prosecutors to respond within three weeks after that, and that any reply from Boye must come within two weeks after that response. On 12 January, the court verbally granted two weeks more, until 3 February, to file the Appeal Brief.

In early January, the District (lower) court scheduled "ancillary hearings" for 18 February 2016. The court later rescheduled them to 8 March, and again to 30 March at 10:00 AM in Trenton - Courtroom 5E.

On 21 January, Boye's attorney Michael Confusione and the Prosecutor filed opposing motions. Confusione argued against summary dismissal of the appeal, claiming that the long sentence was a "miscarriage of justice" because the District Court had calculated the loss to the victim incorrectly and Boye's previous legal counsel had been "ineffective" in not raising this issue. He promised to file a full Appellant's Brief and Appendix by 3 February. U.S. Attorneys Paul Fishman and Glenn Moramarco responded that Confusione's "assertion of a Guidelines calculation error is wholly unsupported by any argument, any case law, or any facts." They explained that Timor-Leste's Government had requested restitution of $5.48 million and that Boye said was too high, although he agreed to $3.51 million. Confusione rebutted the prosecutors' argument. La'o Hamutuk shared our analysis of the $176 million cost of Boye's scheme with the prosecutor handling the appeal.

On 25 January, Attorney Confusione filed a 95-page document with the Court of Appeals, including a 49-page argument about why Boye's sentence should be reduced, as well as the amount of restitution he should be required to repay Timor-Leste. The core of his case is that the value of the work Boye provided to Timor-Leste should be subtracted from the payments he fraudulently received. Confusione also filed a four-volume Appendix (more than 300 pages) of documents relating to Boye's work in Timor-Leste, as well as several documents relating to Boye's sentencing, but these have not been made public.

On 28 January, three Court of Appeals judges rejected Boye's appeal. They ruled that by signing the plea bargain he had waived his right to appeal and reaffirmed the six-year prison sentence imposed by the lower court. Their one-sentence order reads "The foregoing motion to enforce appellate waiver and for summary affirmance is granted." On 19 February, the Court of Appeals officially transmitted their decision to the District Court.



In late 2015, Boye began serving his 72-month prison sentence at Fort Dix Correctional Institution in New Jersey. If he behaves himself, he could have his sentence reduced by about 10 months for "good conduct time" and is scheduled to be released on 18 February 2021.

On 8 December 2015, the District Court cancelled Boye's "recognizance number", and on 17 December they ordered that his $500,000 cash bail be returned to a trust fund for his "marital federal tax obligations and for the support and maintenance of [Boye's] two minor children." It is therefore not available to be included in restitution to be paid to Timor-Leste. On 2 February 2016, the prosecutor informed the court that adequate public notice had been given to possible claimants against the property which Boye will forfeit.

On 18 April 2016, U.S. Attorney Peter W. Gaeta as added to the prosecution team.

On 15 June, the U.S. Attorney's office submitted a proposed settlement to pay some of Boye's forfeited assets to the Crescent Hollow Condominium Association in connection with the house at 25 Crescent Hollow Court (see above). The stipulation, which was accepted by Judge Wolfson the following day, will award around $70,000 to the Association for uninsured damages, attorney's fees and back dues. This money will come from forfeited assets which would have been paid to Timor-Leste as restitution for losses from Boye's crimes.

Boye's trials concluded around the same time as the disputes over the tax assessments he instigated against ConocoPhillips and other oil companies were resolved. The companies were dissatisfied with 2013 rulings by courts in Timor-Leste, and appealed to arbitration in Singapore. Timor-Leste refunded $25 million to ConocoPhillips in February 2015, but most cases remained unresolved until Timor-Leste and ConocoPhillips jointly announced the settlement of "several significant tax disputes" in February 2016, and the arbitration panel ruled on the remaining dispute the following month. Timor-Leste began refunding over-collected taxes by deducting them from Bayu-Undan's monthly royalty and tax payments. La'o Hamutuk understands that the total amount to be returned to ConocoPhillips is at least $150 million. More than $100 million was deducted between February and September 2016, and the repayments continue. **Another page on this website** has more about the tax cases.

La'o Hamutuk has compiled key documents relating to Boye's prosecution, plea bargain and sentence, and another packet regarding the appeal. We will continue to update them as the case proceeds.

Boye files civil lawsuit to overturn his sentence

On 28 September 2016, Bobby Boye and his attorney Michael Confusione filed a lawsuit asking the U.S. Federal Court to "vacate his sentence on the ground that defendant received ineffective assistance of counsel in violation of his rights under the Sixth Amendment to the Constitution, and schedule a new sentencing hearing." The motion was accompanied by a 158-page Memorandum of Law and 1,200 pages, including 23 Exhibits (39 MB compilation). The documents reveal more about Boye's work for Timor-Leste (including bids, bid evaluations and contracts), his emails with Timorese officials and attorney Pierre Prosper, and his trial and sentencing than was previously available to the public.

The motion argues that Boye performed useful work under the contracts that Timor-Leste awarded to his nonexistent company Opus and Best, so that the total losses suffered by Timor-Leste are less than the $3.51 million paid for those contracts. Since the length of his sentence and the amount of restitution he was must repay to Timor-Leste are based on the $3.51 million figure, Boye wants this number re-calculated and the sentence reduced based on a lower amount of losses. Boye claims that he asked his defense attorney, taxpayer-paid Assistant Federal Public Defender K. Anthony Thomas, to raise this issue during his trial and sentencing, but that Thomas did not do so effectively. As described in the motion: "Counsel [Anthony Thomas] failed to cite and argue federal law governing calculation of the "loss" caused by defendant's conspiracy crime, failed to produce evidence regarding the "loss" before the sentencing court, and counseled defendant to accept a plea that “stipulated” a loss figure that was contrary to governing federal law and the actual facts of this case. Counsel failed to submit to the District Court the work products that defendant provided to Timor-Leste (the alleged victim) in exchange for the payments received under the three contracts with Timor-Leste. ..."

As discussed above, La'o Hamutuk estimates that Timor-Leste suffered financial, political and reputational damage from Boye's crimes totalling more than $100 million, although U.S. courts have yet not considered the total costs.

See below for more documents and media reports.

Bobby Boye's shameful history

Much of the following section (with blue background) comes from an article by Carl Alfred Dahl published on 23 August 2014 in *Aftenposten* in Norwegian, and a shorter version two days later in English. Some photos and links are from *Aftenposten*, although La'o Hamutuk has added more. Information added by La'o Hamutuk has a white background. Click on most graphics to see them larger.

Norwegian Ministry of Finance sends fraudster to help Timor-Leste

Adapted from an article by Carl Alfred Dahl, Aftenposten, 23 August 2014

Norway hired the Nigerian-American fraudster Bobby Boye to help Timor-Leste, one of the world's poorest countries. Now, the man is charged with having robbed the country's people of 3.51 million U.S. dollars.

Bobby Boye went straight from being incarcerated for fraud in the United States to an interview with the Norwegian Ministry of Finance. There he got a job as an advisor to help Timor-Leste manage the oil money.

"As you can imagine, the Timor-Leste government had some questions to ask Norway when they realized what they had been exposed to." The very diplomatic statement comes from Pierre-Richard Prosper (left), an American lawyer who spoke to *Aftenposten* on behalf of Timor-Leste government.

The country became independent in 2002, after having been occupied by Indonesia since 1975. Every third Timorese lives in what the World Bank defines as extreme poverty.

But the economy is growing rapidly as a result of oil and gas discoveries on the seabed.

This is where Norway comes in. The Oil for Development project is considered a flagship in Norwegian development cooperation.

Timor-Leste is often mentioned as one of the project's greatest successes. The goal is to help countries that sit on huge oil and gas resources to make the resources into a blessing rather than a curse.

Crown Prince Haakon Magnus met with Timor-Leste's Finance Minister Emilia Pires in Oslo in December 2011. At the time, Bobby Boye was working in the Oil for Development project in Pires' Ministry, with salary from Norway. PHOTO: Larsen, Hakon Mosvold

As part of the project, Norway was to finance up to ten advisors starting in 2008, with gradual reduction until 2013. In 2009 Bobby Boye reported for duty. He was sent by Norway to the capital Dili to make the poor Timorese people a little less poor.

But Boye also enriched himself during his stay, according to the FBI, United States federal law enforcement.

The FBI arrested Bobby Boye at Newark International Airport outside New York on 19 June 2014. The 51-year-old is charged with stealing $3.51 million from Timor-Leste, almost as much as Timor-Leste spends on health in a month. Boye denies the charges.

Aftenposten can reveal that Bobby Boye has a long career at odds with the law. How could he then become an employee of Norway's Ministry of Finance?

Among princes and saints

Bobby Boye was born in Nigeria in 1963. Bobby has alternated between using surnames Boye and Ajiboye.

One of Boye's resumes says his lawyer training and practicing certificate was from Nigeria in 1987.

In his CV, Boye mentions membership in the Lincoln's Inn lawyers' society in London and a Bachelor's degree in law from the prestigious St. John's College, University of Cambridge.

St. John's list of alumni includes nine Nobel Prize winners, six Prime Ministers, three archbishops, three Catholic saints and Prince William ... but no Bobby Boye.

"I cannot find any record of a Bobby Boye or Bobby Ajiboye who has studied at St. John's College, Cambridge," the campus librarian, Fiona Colbert, e-mailed to *Aftenposten*. We got the same response from Lincoln's Inn.

Two universities in California, however, confirm that Boye attended law school with them in the late 1990s.

Critically ill

In 1998 Boye gets a job at Morgan Stanley subsidiary Dean Witter in Woodland Hills, California. There, he allegedly succumbed to the temptation to enrich himself at customer and employer expense.

According to a ruling by the disciplinary committee for the New York Stock Exchange, Boye embezzled shares and cash worth about $90,000 from two of its customers, forging signatures and trading without their authorization.

Then he is allegedly struck by a life-threatening illness.

But Bobby Boye does not let the disease stop his career. Just days after he begins medical leave paid by Morgan Stanley, he takes a job with auditing giant KPMG in San Francisco, according to his own CV. For the next six months, Boye enjoys sick pay from one place and salary from another.

When his boss at Morgan Stanley discovers this, Boye is fired.

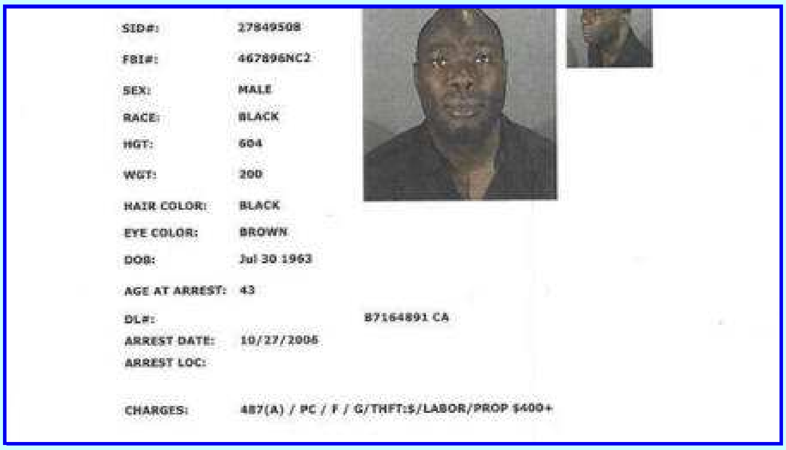
In July 2004, Boye was censured and permanently barred from the New York Stock Exchange and its member companies.

Got tax refund

In 2002 Boye was hired by 3D Systems, pioneers in the development of 3-D printers, in Valencia, California. Boye heads up the tax department and often causes 3D Systems to overpay taxes to Canada.

When Canada reimburses the tax, Boye ensures that it ends up in his private account. In this way, he stole at least $250,000 from his employer.

Although 3D Systems was paying him more than $100,000 per year in salary, Bobby Boye applied for personal bankruptcy in September 2004. Boye didn't mention his account where the diverted Canadian tax refunds were waiting, and the Bankruptcy Court didn't discover it. When the Court approved his application in January 2005, they allowed Boye to cancel approximately $100,000 in debts, but let him keep his ten-year-old BMW 318 and Jaguar XJS luxury cars.



SID#: 27849508
FBI#: 467896NC2
SEX: MALE
RACE: BLACK
HGT: 604
WGT: 200
HAIR COLOR: BLACK
EYE COLOR: BROWN
DOB: Jul 30 1963
AGE AT ARREST: 43
DL#: B7164891 CA
ARREST DATE: 10/27/2006
ARREST LOC:
CHARGES: 487(A) / PC / F / G/THFT:$/LABOR/PROP $400+

In 2006, Bobby O. Ajiboye was arrested; he was brought to trial the following year. There, he pled guilty to theft, money laundering and forgery. Police presented evidence that linked the two identities Bobby Boye and Bobby Ajiboye together.

Boye emptied the fat account on the day he left the company, in mid-2005.

However, the 3D Systems scam caught up with him. California authorities arrested Boye in October 2006, and he faced charges in court in Los Angeles.

Bobby Boye lays his cards on the table. He admits to having stolen at least $150,000 and laundered at least $35,000. At the same time, Boye admits falsifying an application for an identity card in 1996 and an application for a driver's license in 2002.

He has operated with at least two different identities and social security numbers. Police require Boye to submit to three DNA tests and finger and palm prints to confirm this.

Boye is sentenced to three years in prison (served in a restitution center), three years on probation, and ordered to repay $262,128 to 3D Systems. He also had to pay $125,252 to the firm that uncovered the fraud. The method and the amounts were confirmed by Maryellen Sebold, who performed the audit.

Hired by Norway

Boye had probably finished his sentence by the beginning of 2009. Later that year, he sought a job at the Royal Finance Ministry in Oslo.

Six people applied, but only Boye was called for an interview. The Norwegian Ministry of Finance staff interviewed him in New York and Oslo.

Ministry of Finance staff also interviewed four of his references.

One of the references was associated with a law firm in London which had gone bankrupt in 2003. Reference number two was with KPMG, where Boye worked while he was receiving sick pay from Morgan Stanley.

In addition, Boye named references from two different positions working for Nigerian government agencies.

The last time he claimed to have worked for Nigeria overlaps with the prison sentence to which he was sentenced in 2007.

In his CV, Boye also mentioned 3D Systems, the company he was convicted in 2007 of having defrauded. The Ministry of Finance did not check this reference.

Boye made it, according to a letter from the Ministry: "With reference to your application dated 1 December 2009, the Norwegian Ministry of Finance has the pleasure to offer you a position as petroleum tax advisor in the Oil for Development program in Timor-Leste." According to the work contracts, Bobby Boye earned over $340,000 of Norwegian taxpayers' money in salary, per diem and allowances to cover hardships related to the overseas assignment.

(See below for his additional salary from Timor-Leste and for Norway's explanation of how he was hired.)

As shown on the New York State Unified Court System website (right), Boye was first admitted to practice law in New York State in 2010, **after** Norway had hired him to come to Timor-Leste. He is not listed as a lawyer in California, New Jersey or Connecticut, the other states where he has lived.

	BOBBY WALLY BOYE HOUSE D, ROAD 7B, OAU QUARTERS ILE-IFE OSUN NIGERIA +234-803-401-3462
Year Admitted in NY:	2010
Appellate Division Department of Admission:	3
Law School:	NIGERIAN LAW SCHOOL

La'o Hamutuk met him in Dili in July 2010; he probably arrived a few months earlier.

Early in 2012, Timor-Leste formally took over as the employer responsible for Boye, but it was planned for Norway to pay 60 percent of his salary until the end of the year.

"Norway had previously provided advisors who worked well. When Timor-Leste needed a legal advisor, Norway took on the task of identifying and recruiting him and introduced him to Timorese authorities," Pierre-Richard Prosper, Timor-Leste's spokesman, told *Aftenposten*.

Working for Timor-Leste ... and himself

In Dili, Boye approached his task of improving tax collection from oil companies with gusto. He identified gaps which he said the companies had exploited, changed external auditors of the companies' tax returns, and obliged the companies to keep records in Dili as well as Australia. His activity and apparent results earned the trust of many of his Timorese, Norwegian and international supervisors and colleagues. For specifics, see La'o Hamutuk's page on Making the Oil Companies Pay What they Owe, the web page which prompted ConocoPhillips to look into Boye's history in 2010.

Together with the Timor-Leste government, Boye organized a series of audits and assessments which he said could bring in billions of dollars of additional revenue. ConocoPhillips and the other companies protested strongly, but paid more than $300 million in back tax levies in 2011 and 2012 in order to avoid escalating penalty and interest charges. At the same time, they appealed the assessments. Dili courts have supported some company appeals, but most are pending decision by arbitration panel in Singapore later this year.

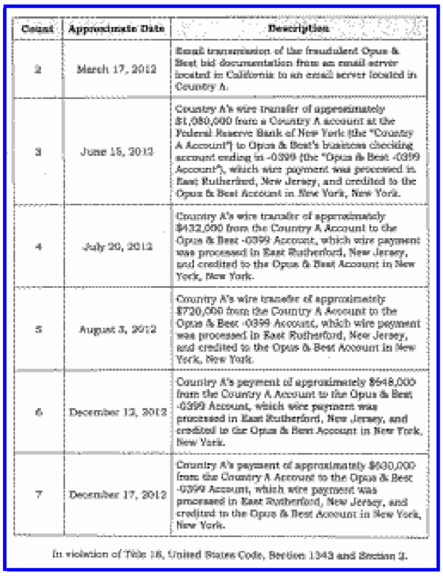
In a submission to the Australian Parliament in April 2013, ConocoPhillips lamented: "ConocoPhillips and the other Bayu-Undan joint venture partners have recently received multiple tax assessments that breach the fiscal framework committed to by Timor-Leste... [and] represent a change in the interpretation and application of Timor-Leste tax laws. ... Repeated attempts over several years to resolve these matters through direct negotiation with the Timor-Leste government have been unsuccessful and, consequently, the joint venture partners are now seeking recourse both in the Timor-Leste District Court and through international arbitration."

Boye advised Timor-Leste authorities that their tax regulations were unclear and contained loopholes, and should be revised. They accepted his advice and asked him to prepare new versions, but he said that this was a big task and he was too busy, so it should be contracted out. Therefore, in February and March 2012 the Ministry of Finance requested bids from international law firms in support of Petroleum Tax Audit and for writing petroleum tax regulations, both listing Bobby Boye as the contact "for further information or clarification."

The invitations to bid asked for, among other things: "A corporate profile including the date they were established, ...

similar assignments they have performed over the past five years indicating ... contact details for client staff who could be asked to provide references, ... CVs of key staff likely to be available for the assignment indicating their skills and qualifications ... Statement declaring whether they are in any potential conflict of interest situation."

Several bids were received for rewriting the tax regulations, including one for approximately $350,000 from the established global law firm Baker & McKenzie. However, the only bid which survived the independent technical evaluation and background check conducted by Bobby Boye was for $2.4 million from the unknown New York company Opus & Best Law Services, which was awarded a contract in May 2012. (In September 2014, a Ministry advisor told La'o Hamutuk that this process is being reviewed, and that additional safeguards may be added when only one bid passes technical screening.)



Count	Approximate Date	Description
2	March 17, 2012	Email transmission of the fraudulent Opus & Best bid documentation from an email server located in California to an email server located in Country A.
3	June 15, 2012	Country A's wire transfer of approximately $1,080,000 from a Country A account at the Federal Reserve Bank of New York (the "Country A Account") to Opus & Best's business checking account ending in -0399 (the "Opus & Best -0399 Account"), which wire payment was processed in East Rutherford, New Jersey, and credited to the Opus & Best Account in New York, New York.
4	July 20, 2012	Country A's wire transfer of approximately $432,000 from the Country A Account to the Opus & Best -0399 Account, which wire payment was processed in East Rutherford, New Jersey, and credited to the Opus & Best Account in New York, New York.
5	August 3, 2012	Country A's wire transfer of approximately $720,000 from the Country A Account to the Opus & Best -0399 Account, which wire payment was processed in East Rutherford, New Jersey, and credited to the Opus & Best Account in New York, New York.
6	December 12, 2012	Country A's payment of approximately $648,000 from the Country A Account to the Opus & Best -0399 Account, which wire payment was processed in East Rutherford, New Jersey, and credited to the Opus & Best Account in New York, New York.
7	December 17, 2012	Country A's payment of approximately $630,000 from the Country A Account to the Opus & Best -0399 Account, which wire payment was processed in East Rutherford, New Jersey, and credited to the Opus & Best Account in New York, New York.

In violation of Title 18, United States Code, Section 1343 and Section 2.

Contracts awarded to Opus & Best (Vendor ID VO0149) from the National Directorate for General and Financial Administration in the RDTL Ministry of Finance, according to the Procurement Portal

Award Date	ID	Procurement Document	Published Date	Award Amount
07-11-2012	17620	Commitee ba Petroleum Tax Audit Project (CONTRACT No. RFP-ICB-EOI-006MOF-11-2012)	17-07-2012	$1,400,000.00
08-05-2012	14257	Progress Billing in respect of the Completed TDA Regulations as providede for in sections 4 (c) (d) of the Contract, selu ba Opus Best LLC (Contract No. RFP-ICB-EOI-002-MOF-4-2012)	16-01-2012	$2,400,000.00
08-05-2012	14214	Initial 50% deposit in the Sum of $800,000Payable upon Contrac Execution and being 505 of the total Contrac Sum($ 1,600,000) as agreed for 1- Review of the back agreements between related in respect of the Bayu Undan Gas Project, Including Ownership and co	15-02-2012	$1,600,000.00
28-04-2012	13633	Contract for Consulting Services (Contract No. RFP-ICB-EOI-002-MOF-3-2012)	05-02-2012	$2,400,000.00

The Ministry circulated the proposed new regulations drafted by Opus & Best for public comment in early June, and Finance Minister Emilia Pires signed off the final version on 26 June 2012. Bobby Boye claimed that they were among the most comprehensive and detailed oil and gas tax regulations in Asia.

According to Timor-Leste's Procurement Transparency Portal, the Ministry of Finance awarded $7.8 million worth of contracts to Opus & Best during 2012 (left). Timor-Leste paid Opus & Best about $3.5 million under these contracts (page at right from the FBI Complaint).

Bobby Boye defrauded the poor young country in Southeast Asia. The monetary trail goes from Timor-Leste's treasury, to a law firm named Opus & Best, and further to extravagant consumption for the benefit of Bobby Boye.

In its Complaint, the FBI described the following:
"From the beginning of 2012, as a trusted legal advisor to Country A [Timor-Leste], Boye assisted in brokering an assignment worth $3.5 million to obtain legal and tax advice on behalf of Country A. Boye ensured that Opus & Best - a company owned and controlled by Boye himself - bid for and got the lucrative contract."

Opus & Best boasts of 30 years experience in international tax law, a staff of lawyers, economists and auditors, and offices at 100 Park Avenue, midtown Manhattan (left).

In reality, both the website and the company were recently established, with only one employee (Boye himself) and a business address in an apartment in Queens, New York (right).

Boye never tells Timor-Leste that he is affiliated with the company to which he himself awarded contracts worth millions.

The firm claims that there are no conflicts of interest in the assignments. In reality, there are close links between Bobby Boye and the law firm, according to both *Aftenposten* and FBI source material.

Opus & Best incorporated itself as a business on 30 March 2012 (right), **after** they bid for the contract in Timor-Leste and only a few weeks before Timor-Leste's Ministry of Finance awarded them a $2.4 million contract to develop new tax regulations.

New York Companies

OPUS & BEST LLC http://www.nycompaniesindex.com/opus-best-llc-2bfcc/

Business Summary for OPUS & BEST LLC

OPUS & BEST LLC is an business incorporated in NEW YORK, New York, USA on March 30, 2012. It is not part of a group.

Name	OPUS & BEST LLC
Identification number:	4224335

In addition to his salary from Norway, Timor-Leste paid

Business Type	DOMESTIC LIMITED LIABILITY COMPANY
Incorporation date	MARCH 30, 2012
Business Address	OPUS & BEST LLC 35-15 84TH STREET 2H JACKSON HEIGHTS, NEW YORK, 11372
County	NEW YORK
Name history	MAR 30, 2012 Actual OPUS & BEST LLC
Stock info	No Information Available

Bobby Boye $250,000 from the [Contingency Fund during 2011](). Since Boye was also being paid by the Norwegian assistance program, La'o Hamutuk asked him and Norway about this in November 2012, and Boye replied (abridged from two emails):

"The Timor-Leste Prime Minister upon recommendation from the then Vice Minister of Finance, DG Revenue & Customs and the National Director of Petroleum Revenue approved additional compensation for me based on my performance. The employment contract with Norway (now terminated) did not preclude the additional compensation that I received from the TL Government for the services that I rendered during the 2011 calendar year. Whether I am entitled to it or have earned is beyond debate. ...

"Quite frankly the people that want to ask questions should go ahead and do so but I will encourage them to also look at the results of what I am doing here. Aside from other intangibles like capacity building, structure at NDPR, I have literally brought in over $300 million of additional revenue to TL through solo efforts and that is a mere scratch on the surface-considering what is in the pipeline for TL.

"I spend an average of 14 hours a day, 7 days a week on what I do here. My talent is portable and if anybody thinks in and out government that I am paid too much, I am more than willing to move on-fairly quickly, so that they can get a cheap replacement."

It's not surprising that Boye worked long hours. In addition to his advisor job, he had to do the work of an entire fictitious New York law firm.

In 2014, a Ministry advisor informed La'o Hamutuk that the Ministry and Norway shared responsibility for Boye's salary, and that Norway may have reimbursed Timor-Leste for some of it in 2011.

Beginning in 2012, Boye frequently left Timor-Leste for Singapore and New York, ostensibly for medical reasons, and he didn't return after mid-2013.

The luxury cars

The FBI thinks it is sitting on a data trail that links Boye to the law firm's e-mail and bank account. In addition, the Opus & Best law firm used Boye's home address on several real estate purchases.

The millions were moving fast. After he joined the Ministry of Finance, Boye and the law firm purchased the following:

- property for three million dollars, according to official records.
- a car fleet worth more than $490,000, consisting of a Bentley, a Range Rover and a Rolls-Royce, according to the FBI.
- watches for $20,000, according to the FBI.

Bobby Boye bought a silver 2012 model Bentley Continental, worth $172,000, with four-wheel drive and a 6-liter flex-fuel engine, similar to the picture. FOTO: Denis Balibouse

Bobby Boye bought a gray 2011 model Rolls-Royce Ghost, worth $215,000, with a 6.6 liter petrol engine, similar to the picture. FOTO: Sandro Campardo

Bobby Boye bought a black 2012 model Range Rover Luxury, worth $100,983, with 5-liter gasoline engine, similar to the picture. FOTO: Mark Lennihan

Arrested at the airport

In March or April 2013, Bobby Boye packed his bags and left Timor-Leste, after a failed attempt to acquire even more money, according to the FBI.

Authorities from Timor-Leste, the United States and Norway begin to investigate what happened. Boye is arrested by the FBI on 19 June 2014, when he arrives at Newark International Airport after an overseas trip.

The FBI takes custody of four properties belonging to the firm Opus & Best.

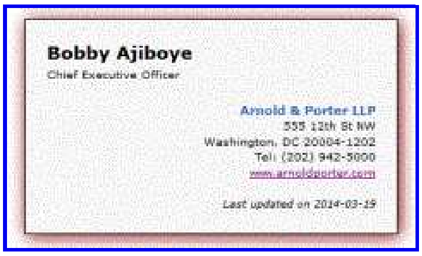
The properties are owned by the firm, but are closely associated with Boye:

- On three of the purchase contracts, the firm gave Boye's luxury villa as the company address.
- One of the properties was transferred free of charge to the firm in March 2013. The benefactor has the same address as Bobby Boye.

Bobby Boye offers the villa he bought in 2011 for $1.9 million as collateral.

"Timor-Leste was not aware of the scam it was exposed to until after Boye left the country. As you probably understand, the authorities were surprised when they became familiar with his background," says Prosper.

Aftenposten has not been able to find out what Bobby Boye was involved in the time after he left Timor-Leste, and until his arrest.



La'o Hamutuk did a Google search in September 2014 which turned up the business card at left (click it for context), so Bobby may be reinventing himself once again. Needless to say, the leading D.C. law firm Arnold & Porter has no Bobby Ajiboye among the 465 professionals in its Washington office.

In Southeast Asia, 1.1 million Timorese people are slightly poorer than they should be, if the FBI's assertions about the man Norway sent to help them are true.

Denies guilt

Bobby Boye's attorney, Joseph P. Rem Jr. of the Rem Law Group, confirmed to *Aftenposten* that Boye had been in prison for theft and money laundering in connection with the 3D Systems scam.

How does Bobby Boye respond to the accusations from the FBI?
"He denies them."

Is it possible to contact Boye directly?
"No. Even if you did get hold of him, he would not answer your questions. He is told not to discuss the case."

Deputy District Attorney Shirley U. Emehelu in New Jersey, told *Aftenposten* that the date of Bobby Boye's trial has been postponed several times, most recently on 12 August. According to court documents, there have been talks about a possible settlement, and the ongoing legal process is described above.

Boye is under house arrest in his villa. The plot is almost four thousand square metres, and there is a large swimming pool in the garden.

Dependent on assistance

To a large extent thanks to Norway's efforts, Timor-Leste's petroleum fund is growing steadily. From April to June 2014, $850 million in fresh oil money poured in. As of June 30, the fund was worth over $16 billion. It is supposed to guarantee the small and poor country a steady growth and better living conditions for future generations.

"Timor-Leste is an entirely new country, which started from scratch in 2002. The population really depends heavily on the international community. The authorities have now realized that they must play a greater role in the vetting of the advisors that other nations and organizations present to them. They must also learn to ask the right questions," says government spokesman, Pierre-Richard Prosper.

Norway: It is of course regrettable

The Finance Ministry's communications department refused to meet *Aftenposten* for an interview, despite the fact that the newspaper and the Ministry are across the street from each other. The Ministry requires questions and answers on e-mail.

Responses are signed by deputy department director Håkon Tandstad and sent by Communication Manager Runar Malkenes. Tandstad signed the contracts with Boye.

> Timor-Leste alerted the [Norwegian] Foreign Ministry (MFA) in mid-2013 on the fraud allegations. The Foreign Ministry then alerted the [Norwegian] Ministry of Finance.

How could it happen that a convicted fraudster gets a job in Finance?

> "That is a legit question. We followed what we thought were thorough recruitment routines, and we were extra cautious because this was an international applicant. But in this case, it obviously was not good enough, which is unfortunate."

How was the position advertised?

> "First, in June 2009 in *Aftenposten* and on our job portal. There were no qualified applicants, and it was advertised again in *The Economist."*

How many applied?

> "Six people applied, but only Boye was called for an interview. The others were not considered qualified."

What did the application and CV say?

> "Boye stated that he had extensive experience of working with 'high level tax' and the international oil industry. In his resume he stated his education, 'professional licenses / Affiliations' and work experience."

Who checked the CV, and how was this done?

> "The CV was checked by several staff in our tax and human resources units. We interviewed four of his references. In February 2010, we received written confirmation from the State of New York Supreme Court that Boye "was issued a certificate of good standing". Nothing emerged through this process that would cast doubt on his qualifications, writes Tandstad.

Did not check defrauded reference

In the CV Boye also listed 3D Systems, the company he was convicted in 2007 of having defrauded.

The Ministry of Finance did not check this reference.

The four references that were interviewed were associated with a law firm in London (which filed for bankruptcy in 2003), the audit firm KPMG, and two offices of the Nigerian government. The last time he said he had worked with Nigeria overlaps with his 2007 prison sentence.

> "There were no indications of inaccurate information in 2010", writes Tandstad.

How was Boye interviewed?

> "Boye was interviewed twice early in 2010, in New York and Oslo, by several members of our staff. Our attention was directed to his professional qualifications, and the interviews confirmed that Boye was qualified and that he had a broad knowledge of international tax issues."

When and how did the Ministry become aware of Boye's history?

> In the wake of allegations of fraud, during October-December 2013, claims also emerged that he was previously convicted. We were not familiar with the specific cases reported by *Aftenposten*.

Norway's Ministry of Finance had decided, before this case came up, that it shall not recruit for, or act as employer in, aid programs of this sort.

Sources for Aftenposten article: Conviction and petitions from Los Angeles Superior Court, minutes of a hearing of the Disciplinary Board of the New York Stock Exchange, documents from property registries and courts in New York and New Jersey, documents from Ministries of Finance in Norway and Timor-Leste.

Additional sources used by La'o Hamutuk: U.S. Bankruptcy Court and U.S. District Court of New Jersey dockets on PACER, FINRA report, Norwegian Foreign Ministry website, interviews with RDTL Ministry of Finance and other staff and advisors, TL Procurement Portal, RDTL Ministry of Finance website (documents downloaded and saved in 2012).

Australia weighs in

On 9 September 2014, an article by Tom Allard in the *Sydney Morning Herald* reported that ConocoPhillips knew about Boye's record long before Timor-Leste's government learned of it. The company's interest was piqued in 2010 by the 'uncanny accuracy' of La'o Hamutuk's web page on back petroleum taxes, and their background research on Boye revealed some of his shameful history. (Although La'o Hamutuk did talk with Boye occasionally during that time, we received information from many other public, official and unofficial sources.) After Boye was arrested, people close to Timor-Leste's petroleum tax system told us that they had concerns about Boye and Opus & Best years ago, but that his trust by high officials prevented them from being acted upon. Indeed, some of the above history can be found on the internet in a few minutes.

On 10 September, the *SMH* published another article by Allard describing Timor-Leste's allegations about Roger Maguire, an Australian advisor to the tax department in Timor-Leste's Ministry of Finance in 2010-2011. After Maguire left Timor-Leste, ConocoPhillips paid him $120,000 to help develop the company's evidence in the tax arbitration cases. Timor-Leste's attorney Pierre Prosper alleged that Maguire had been a "mole" for the company while he was ostensibly working for Timor-Leste.

We will continue to update this page as more information becomes available, and as Bobby Boye's case proceeds through the U.S. judicial system (see above for the current status).

Media coverage (most recent first)

- Mahwah man gets six-year sentence for defrauding tiny Asian Nation (North Jersey.com)
  $3.5M international con game nets NJ man 6 years in prison (NJ.com), 15 October 2015
- Bergen County, New Jersey, Man Sentenced To Six Years In Prison For Defrauding Foreign Nation Of More Than $3.5 Million, US Attorney press release, 15 October 2015
- Mahwah man fleeced tiny developing nation of $3.5M, North Jersey.com, 2 May 2015
- Attorney Admits to Scamming Foreign Nation Using Sham Firm, Law 360, 28 April 2015
  $3.5M scheme bankrolled N.J. lawyer's luxury car buying spree, feds say, NJ.com, 28 April 2015
  Authorities: Bergen County Man Pleads Guilty to Defrauding Foreign Country Out Of $3.5 million, Bergen County Patch, 28 April 2015
- Bergen County Man Admits Defrauding Foreign Nation of More Than $3.5 Million, US Attorney press release, 28 April 2015
- Norway's Link to Graft Claim, Upstream Online, 12 September 2014
- East Timor accuses Australian tax assessor Roger Maguire of being a "mole" for oil companies. Sydney Morning Herald, 10 September 2014
- Big Oil stands by as con man swindles East Timor. Sydney Morning Herald, 9 September 2014
- Timor-Leste thinks Norway should take responsibility for alleged fraud. Aftenposten, 25 August 2014 (also Norwegian: Øst-Timor mener Norge må ta ansvar for påstått svindel)
- Convicted embezzler, money launderer hired by Norway's government. Aftenposten, 25 August 2014 (also PDF)
- Finansdepartementet sendte svindler for å hjelpe Øst-Timor. (Finance Department sends swindler to help Timor-Leste). Aftenposten, 23 August 2014
- Conoco Phillips Appreciates Dili District Court's Independence on Tax Cases. Independente/ETLJB, 30 June 2014
- Timor-Leste has been robbed! or Nauk ona Timor-Leste (Tetum). La'o Hamutuk blog, 23 June 2014 (updated through August)
  The information on this blog was picked up by media in Dili and around the world.
- Feds allege Bergen County man defrauded foreign country, bought property, luxury cars. Newark Star-Ledger, 19 June 2014
- Bergen County Man Arrested for Defrauding Foreign Nation of More Than $3.5 Million, FBI press release, 19 June 2014

Documents

- Boye's brief to the Court of Appeals asking to reduce his sentence, 25 January 2016
- Materials relating to the appeal of Boye's sentence, U.S. Court of Appeals for the Third Circuit, November 2015-January 2016
- Materials relating to Boye federal criminal case, U.S. District Court of New Jersey, June 2014-January 2016
- Sentencing minutes, transcript and detailed judgment, October 2015
- Judge's forfeiture order in U.S. District Court, July 2015
  Corrected version, October 2015

- Prosecutors' information, Plea Agreement and Application for Guilty Plea in U.S. District Court, April 2015
- La'o Hamutuk letter to U.S. and Timor-Leste prosecutors, 21 July 2014
- Criminal Complaint filed by FBI in U.S. District Court, 18 June 2014
- Offering to sell Boye's home for $2.7 million, October 2013 [since taken off the market and serving as his jail]
- List of contracts Timor-Leste awarded to Opus & Best, TL Transparency Portal, April-November 2012
- Intent to Award contract for revising tax regulations to O&B, Ministry of Finance, May 2012
  Draft regulations circulated for comment, Ministry of Finance, February 2013
- Request for Proposals, Tax-Audit Consulting Services, Ministry of Finance, March 2012
- Request for Proposals, Income Tax and APT Regulations Consulting Services, Ministry of Finance, March 2012
- Programme Agreement between Norway and TL concerning Assistance in Management of Petroleum Resources, June 2008
- Materials relating to Ajiboye bankruptcy, U.S. Bankruptcy Court, September 2004 - January 2005
- NY Stock Exchange Hearing Panel decision 04-8 revoking Boye's stock broker license, January 2004
  FINRA BrokerCheck report accessed July 2014

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