

# Details of Colombia payoffs, U.S. plea agreement sought

## Congressional investigators want to know more about Chiquita's payments to violent groups and the handling of the subsequent federal investigation.

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WASHINGTON --

As part of an inquiry into corporate payments to violent groups in Colombia, some members of Congress want more details about the U.S. Justice Department's handling of the Chiquita Brands International Inc. case, including whether the department was too lenient and why it took four years to file criminal charges after the banana company admitted to making payoffs.

In its plea agreement in March, Chiquita acknowledged that senior executives knew about the payments by September 2000 or earlier, and that they continued to make them until February 2004 -- nearly a year after its own lawyers and the Justice Department told them to stop.

### CHARGES CONSIDERED

Current and former Justice officials said in interviews with the Los Angeles Times that the prosecutors handling the Chiquita case wanted to bring charges of material support of terrorism against the banana company and to pursue charges against some of its top executives by early 2004, if not sooner.

Instead, the company was charged three years later with one count of "engaging in transactions with a specially designated global terrorist" and levied a \$25 million fine, payable over five years. No executives were charged.

According to the Justice Department sources, the prosecutors were incensed by Chiquita's continued payments to the right-wing United Self-Defense Forces of Colombia, or AUC, after what they described as repeated warnings. But current and former department officials said they were opposed on some matters by political appointees in the department, including David E. Nahmias, a former deputy assistant attorney general overseeing counterterrorism.

The U.S. Attorney's Office in Washington, D.C., was leading the investigation, in conjunction with Nahmias and others at the Justice Department.

### SEARCH WARRANTS

Nahmias first asked Roscoe Howard, then-U.S. Attorney for the District of Columbia, not to execute search warrants at Chiquita headquarters in Cincinnati but Howard refused. Then, he asked that charges not be filed until Justice Department leadership could meet with a lawyer for the company's board, former U.S. Attorney General Richard Thornburgh, the current and former officials said.

Nahmias, now the U.S. attorney in Atlanta, and Howard, in private law practice, declined to comment.

Chiquita's "lawyers went all over DC to have meetings (with top officials at Justice, the Treasury Department and elsewhere, often without the front-line prosecutors knowing about it)," one of the senior Justice Department officials said. "They were trying to cause political pressure."

Like others interviewed for this article, the official spoke on the condition of anonymity, saying he was not authorized to discuss the politically sensitive case.

On April 26, 2004, Thornburgh took his case directly to Nahmias, his boss Christopher Wray and U.S. Attorney General John Ashcroft himself in a two-page confidential letter obtained by The Times. In the letter Thornburgh said that Chiquita merely was trying to protect its employees, and that a criminal prosecution would harm U.S. political and economic relations with Colombia.

Justice Department officials wouldn't comment on whether Ashcroft or his successor, Attorney General Alberto R. Gonzales, ultimately met with Thornburgh or Chiquita board member Roderick M. Hills, a well-connected Republican lawyer in Washington, D.C., and a former White House counsel and head of the Securities and Exchange Commission.

### **FENDING OFF CHARGES**

As Hills took a lead role for Chiquita in fending off criminal charges, his son-in-law, Steve Bunnell, was a senior prosecutor in the U.S. Attorney's Office in Washington. In 2004, Bunnell was appointed head of the office's criminal division, which oversaw the Chiquita investigation and other prosecutions. The entire field office's prosecutorial office considered recusing itself from the case due to the conflict of interest, but ultimately decided only to recuse Bunnell.

Later, senior management in the U.S. Attorney's office also was recused.

Hills' role in the case eventually became a major focus of the investigation. He was one of three senior Chiquita executives who told their outside counsel in the spring 2003 to "just let them sue us, come after us," even as the company was pledging to cooperate with the Justice Department, according to department officials and court records filed in the case.

And as head of the Chiquita board's audit committee, Hills told fellow board members that "we appear to [be] committing a felony" in December 2003, several months before the company stopped the payments, federal court documents show.

Hills, who retired from the Chiquita board in June, declined to comment. Bunnell, who left the Justice Department Friday for private practice, did not answer requests for comment.

When the Justice Department finally settled with Chiquita on March 14, Justice withheld company officials' names and any identifying descriptions of them from the publicly released charging documents and plea agreement.

"It was too soft, for what they did," one of the senior Justice Department officials said of the settlement, which is awaiting formal approval by U.S. District Judge Royce Lamberth.

Jeffrey A. Taylor, the interim U.S. Attorney for the District of Columbia, defended the settlement, saying, "We think it's a fair and just result."