

assessment of \$800; (5) a three year period of probation; and (6) a mandatory and comprehensive corporate compliance program to ensure that these crimes and regulatory violations not reoccur.

3. Prior to its conviction in this case, Argenbright had no effective compliance or audit systems of any kind in place to detect and prevent the regulatory violations and criminal activities that occurred in this case.

4. An effective corporate compliance program was therefore a critical and essential part of the Court's willingness to approve the plea agreement entered into between Argenbright and the government.

5. Argenbright's new nationwide compliance plan and audit program was designed to directly address the problems that occurred in Philadelphia, and included a system designed to detect and prevent future violations of FAA regulations. This Court accepted the compliance program submitted by Argenbright and ordered that Argenbright fully implement and follow the plan that it had presented at sentencing.

II. FINDINGS OF FACT

6. An essential part of the compliance program was that each Argenbright "Audit Team should collect [a] representative sample of personnel files and contact former employers and individuals who accounted for gaps in employment history to confirm that these individuals were indeed contacted and made the representations stated in the selected files." (See Tab 2.D of Revised Corporate Compliance Program). Argenbright promised as part of its corporate compliance program that "Argenbright's checklists require more than a cursory paper review to determine whether files contain approved forms." (See Audit Program Description, Revised Corporate Compliance Program, Tab 2, p. 3).

7. The requirement that Argenbright's auditors perform these third party reverifications was a critical component of the compliance program because it was designed to directly address and discover whether its employees were falsifying employment records in order to create the appearance of compliance with FAA regulations and whether its screeners were qualified.

8. As of the time that it submitted its first periodic report to the government in April, 2001, Argenbright disclosed that it had not done any audits involving the actual contacting of former employers to verify employee backgrounds (referred to here as the "reverifications"). Argenbright's audits in more than 20 of its locations consisted of file reviews, which noted places where it appeared the files were incomplete or missing information. These limited audits did, however, disclose FAA regulatory violations.

9. Between August, 2001 and the present, Argenbright conducted 34 audits of its operations in the following locations: Central Wisconsin, Austin, Philadelphia, Miami, Washington Dulles (2 audits), Washington National (2 audits), Boston, Phoenix (3 audits), Orlando, Little Rock, Tampa, Dallas (3 audits), Cleveland (2 audits), Denver, Boise, Salt Lake City, Memphis, Nashville, Atlanta, Las Vegas, Seattle, Oakland, Los Angeles, Kansas City, Springfield, Houston and Cincinnati. To date, Argenbright has performed the necessary third party reverifications in 12 of these 34 audits. These locations are as follows: Atlanta, Boise, Cincinnati, Dallas, Kansas City, Las Vegas, Memphis, Orlando, Salt Lake City, Seattle, Springfield, and Tampa.

10. Argenbright also agreed as part of its compliance program that it would conduct internal audits of its billing procedures and practices in order to prevent and detect future

billing fraud of the type charged in this prosecution. (Sentencing Memorandum, at p. 8).

Argenbright agreed that it would engage the services of an independent professional organization to conduct an annual assessment of the company's billing policies, procedures and practices to ensure that third parties were being properly billed. As of this date, the company has not conducted any internal audits of client billing functions, but is scheduled to complete its first audit in November, 2001.

11. As a result of Argenbright's failure to timely perform these reverifications, FAA inspectors have found new violations of FAA regulations concerning pre-employment background screening, including failures to verify employment history and education and failures to require fingerprint based criminal background checks in many of the cities in which Argenbright operates.

12. On May 23, 2001, as a result of its audits of employee files in Philadelphia, Argenbright notified the FAA that thirty-nine special services employees (who do not perform security checkpoint screening functions) had significant problems with their files and that, as a result, Argenbright would pull the security badges from these employees.

13. Argenbright's October 15, 2001 Periodic Report discloses that, beginning in June 2001, it had begun to take many significant positive steps toward full implementation of the compliance program ordered by this Court, including the following:

- a) Hiring a new Corporate Compliance Officer with prior experience in implementing corporate compliance programs;
- b) Developing FAA compliance standards and procedures and incorporating them into an "Aviation Administration Policies and Procedure Manual," and holding FAA subject matter compliance training sessions for local and regional airport management;

- c) Engaging an aviation security expert to assess Argenbright's auditing protocols and FAA compliance training program;
- d) To supplement the Compliance Management Committee required by the program, establishing a Corporate Compliance Committee responsible for investigating compliance concerns, reviewing investigative data on compliance hotline calls, approving or recommending actions relative to these calls, reviewing trending data and audit results, reviewing compliance concerns received by the company, and developing and reviewing educational programs;
- e) Developing improved and reformatted recordkeeping and financial auditing tools;
- f) Developing tracking reports which trend audit findings and compliance calls to identify regional or systemic issues;
- g) Rewriting and simplifying the existing Codes of Business Conduct and instituting a second-wave of comprehensive Ethics Training sessions to regional and local management and all front-line employees;
- h) Establishing a comprehensive Corporate Compliance Calendar; and
- i) Developing an Investigative Self-Learning Module for individuals responsible for investigating compliance concerns.

III. CONCLUSIONS OF LAW

14. Argenbright's failure to perform the reverifications and internal billing audits described above constitutes a violation of the terms and conditions of its probation.

15. Section 8D1.5 of the U.S. Sentencing Guidelines describes the remedies available to the Court where, as here, a corporation violates the terms and conditions of its probation:

§ 8D1.5 Violations of Conditions of Probation - Organizations (Policy Statement)

Upon a finding of a violation of a condition of probation, the court may extend the term of probation, impose more restrictive

conditions of probation, or revoke probation and resentence the organization.

IV. PROBATION VIOLATION SANCTION

16. Argenbright's probation is extended from 3 years to 5 years, and shall expire on October 20, 2005.

17. Provided that the appropriate legal authority can be established by the Federal Aviation Administration and the necessary facilities are made available, Argenbright shall conduct fingerprint based criminal background checks on all of its employees who are employed in any airport throughout the United States whose criminal backgrounds have not been checked by the U.S. Department of Transportation Office of Inspector General between October 12, 2001 and this date, and shall remove any employee who is found to have a disqualifying criminal conviction from any position for which the employee would be disqualified by virtue of that conviction and prevent unescorted access to sterile areas of airports by any employee who is found to have a disqualifying criminal conviction.

18. Provided that the appropriate legal authority can be established by the Federal Aviation Administration and the necessary facilities are made available, every airport services employee hired by Argenbright shall undergo a fingerprint based criminal history check and shall not be permitted to work in any position for which the employee would be disqualified by virtue of a disqualifying conviction or have unescorted access to sterile areas of airports until the final results of the check are available and it is determined that the employee has not been convicted of a disqualifying crime.

19. Argenbright shall submit the Periodic Report required under the compliance program to this Court, the Probation Office, and the U.S. Attorney four times each

year with the next periodic report due on or before January 1, 2002. The periodic report shall be submitted on January 1, April 1, July 1 and October 1 during each remaining year of Argenbright's probation.

20. Argenbright shall comply with all aspects of the audit program approved by the Court at the time of sentencing, including the requirement that third party reverifications be performed for a representative sample of employee files in each airport location as part of every audit that its Compliance Department auditors undertake. Every Argenbright airport services location shall be audited at least two times per year.

21. Argenbright shall, within 45 days of the date of this Order, fully comply with the financial audit requirements set forth in Section J of its Code of Business Conduct, Tab 1 of the Revised Corporate Compliance Program. A copy of the audits completed in connection with this compliance program requirement shall be provided to this Court, to the Probation Office and to the U.S. Attorney for the Eastern District of Pennsylvania.

22. Argenbright shall, within 30 days of the date of this Order, ensure that the Ethics Training required by the Corporate Compliance Program is conducted in every Argenbright business location.

23. Argenbright agrees that a willful failure to comply with the material terms of the compliance program or these stipulated sanctions (§§ 16-22) shall authorize the Court in its discretion to impose monetary sanctions for such non-compliance.

Respectfully submitted,

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APPROVED BY THE COURT:

HONORABLE MARVIN KATZ
United States District Judge