

# Questions about Chevron Role in Ecuador Bribery Scandal

*Amazon Defense Coalition/October 2009*

In what appears to be a last-ditch effort to evade a potential \$27.3 billion environmental liability in Ecuador, Chevron recently posted to YouTube secret video recordings that the company claimed implicates the trial judge and government officials in a purported \$3 million bribery scheme. These videos, shot secretly by Chevron contractor Diego Borja and American businessman Wayne Hansen, raise significant questions about whether Chevron, or persons working on behalf of the company, stage-managed a bribery scheme in violation of U.S. criminal laws as part of an elaborate hoax intended to disrupt the Ecuador trial. So far, Chevron has refused to answer dozens of fundamental questions that point to its own culpability in possible criminal conduct to undermine a trial in a foreign nation. Some of these questions are as follows:

- 1. Planning the bribery scheme:** Did Chevron, or any agent of Chevron in either the U.S. or Ecuador, in any way design, finance, plan, facilitate or otherwise try to influence the bribery scheme before it had possession of the videotapes? What were the contacts between Chevron's corporate headquarters and its Quito office about the bribery scheme, and when did they take place? Did Chevron have an understanding with Borja and Hansen to provide certain benefits in exchange for the tapes?
- 2. Role of Chevron's Quito office:** What role did Chevron's local lawyers have in designing and planning the approach of Borja and Hansen to either the judge or Garcia, in an effort to entrap the judge in a scandal? (Note that this office hired Borja to work on the trial in March of this year.) The key local Chevron lawyers are Adolfo Callejas, Diego Larrea, Alberto Racines, Patricio Campuzano, and Rodrigo Perez Pallares. However, there are numerous other individuals who work for Chevron in a non-legal capacity, such as security guards, para-legals, drivers, consultants, etc.
- 3. The tapes:** Who edited the tapes for YouTube? Where were they edited? How were they edited? If two people (Borja and Hansen) were taping, why did Chevron release only one tape? Why has Chevron refused to release the forensics report of the tapes completed by its own paid expert, Dr. Durand Begault? Why are the tapes fragmented in some places?
- 4. The judge:** Why is the judge not seen when he says "yes sir" to a question about Chevron's culpability in the case? Was this part of the tape spliced together, as the judge maintains? Why did Chevron fail to disclose the fact that the judge explicitly refused to state how he would rule in the case when pressed by Borja and Hansen on 13 separate occasions?
- 5. The fourth meeting:** Why did Chevron initially claim it received the tapes after the four meetings were completed, and later admit its lawyers met with Borja in San Francisco between the third and fourth meetings? Did Chevron's lawyers direct Diego Borja or

Wayne Hansen to ask certain questions in the fourth meeting to create the appearance of conversations about a bribery scheme implicating the judge and the plaintiffs, so it could be used for public relations and political purposes?

- 6. Withholding evidence for public relations gain:** Why did Chevron withhold the tapes for three months when they showed evidence (according to Chevron) of corruption of the legal process? Why did Chevron not turn them over to authorities immediately? Was the delay to plan a public relations attack? Why did Chevron buy and run banner ads on various websites, such as Congressional Quarterly, linking to the videos after they were released but while the investigation is pending? Why did Chevron's lobbying office in Washington, D.C., send the video links to members of Congress if the investigation is open and not complete?
- 7. Borja and Hansen's criminal activity:** Did Hansen, as an American citizen, (or Borja, as an agent of Chevron?) violate the Foreign Corrupt Practices Act by trying to bribe a foreign official (the judge) for a remediation contract? Or was Hansen acting on behalf of Chevron to make it appear a bribery scheme was afoot, to contrive evidence to discredit the trial where Chevron was facing a judgment? Who is Hansen? Why did he claim to have a remediation company, when in fact he does not? Did Hansen have an agreement with Chevron that Chevron would provide him certain benefits (such as a lawyer) in exchange for making or turning over the tapes or executing the scheme?
- 8. Access to witnesses:** Why did Chevron make Borja and Hansen unavailable for questioning, when the company released the videos on YouTube and said it would make all information public? Why did Chevron help hire and possibly pay prominent criminal defense lawyers to represent Borja and Hansen?
- 9. Motivation to record meetings:** Why would Hansen and Borja independently, as Chevron alleges, and secretly record themselves offering to bribe Patricio Garcia for a remediation contract, an act that appears to violate both Ecuadorian and US criminal law? Why would these guys record the meetings if not to help Chevron contrive evidence? Why would they offer a bribe for a remediation contract at this time, given that the end of the appeal process is at least years away? Why would they seek involvement of the judge in such discussions if not to discredit the trial given that the judge has no control over awarding remediation contracts?
- 10. Relationship with Borja:** Will Chevron disclose its full relationship, past and present, with Borja including the terms of Borja's employment contract, his prior contact with Judge Nunez and Chevron lawyers, and terms of compensation, including in the form of visa, legal and employment assistance provided since the taping? Was there an agreement between Borja and Chevron for certain benefits (payment of criminal defense lawyer, relocation, interim support) in exchange for the tapes or for executing Chevron's plan?
- 11. Relationship with Hansen:** Chevron said it had "no connections" and "no ties" to Hansen, but Chevron has admitted it is paying for his criminal defense attorney, Mary

McNamara. What ties does Chevron or Texaco have to Hansen or to any consulting company for which he had done work in the past?

12. **Joint Defense Agreement:** When did Chevron arrange for U.S. criminal defense attorneys for Borja and Hansen? Was it before August 31, when the videos were made public? Did Chevron arrange for the two key witnesses – Borja and Hansen -- to be unavailable once the videos were made public? Is there a Joint Defense Agreement between Borja, Hansen, and Chevron? Why was Borja's sworn declaration of October 16 signed in San Ramon, Chevron's global headquarters, rather than in Oakland, where his lawyer's office is located?
13. **Patricio Garcia:** Who is he? Did he approach Borja and Hansen, or did they approach him? Who introduced Borja and Hansen to Garcia? Does Garcia have any connection to Chevron or Texaco during Texaco's period of operations? Was he involved in Texaco's purported remediation? What is his actual connection to the judge or to Ecuador's government and President?
14. **Inaccuracies in translation:** Why do they exist? Why are there discrepancies between the tapes and the transcripts?

**Other questions about Chevron's role in the so-called bribery scheme:**

- Who in Chevron was involved in any aspect of setting up the bribery scheme?
- What role did Chevron's Vice-president, Charles James, have in the bribery scheme? Did he have direct contact with Borja or Hansen? Did he have discussions with Chevron's Quito office about the scheme? What was his role in facilitating the exploitation of the videos for public relations purposes? When did he first become aware of the existence of the video tapes? What role did he have in planning the fourth meeting? What knowledge did he have of the fourth meeting before it occurred?
- What did Chevron's CEO, David O'Reilly, know about the bribery scheme and when? Was there any analysis of how the scheme could backfire against Chevron by involving the company in activity that could violate U.S. and Ecuadorian law?
- What role did any Chevron outside legal or public relations counsel have in the scheme? Did anybody from Jones Day have a role in the scheme? Edelman public relations? Sard public relations? Hill & Knowlton?
- Why did Chevron post the video recordings on YouTube before it turned them over to authorities?
- Judge Nunez had issued several rulings adverse to Chevron in recent months. Did this fact motivate Chevron to try to embarrass Judge Nunez?
- Did a potential \$27.3 billion judgment against Chevron in an Ecuador trial court motivate the company to use the bribery scheme to try to taint the trial?

**Questions regarding Chevron's handling of the video recordings:**

- Was the recording released by Chevron shot by Borja or Hansen, or some combination?
- How was the recording edited? Who edited it? Who directed the editor? Were any members of Chevron's legal or public relations teams involved in the editing of the recordings?
- Why is Judge Nunez not seen on the recording when he says "Yes, Sir" in response to a question about whether Chevron is guilty? Did Judge Nunez really answer the question this way, or was it manipulated by Chevron via editing?
- Did Chevron or any of its agents or employees have any role in getting the secret micro-cameras for Borja and Hansen? Who trained Borja and Hansen in how to use the devices?

**Questions regarding the motivation of Borja and Hansen to record the meetings:**

- Chevron claims it innocently received the recordings in early June. What motivation did Borja and Garcia have to give Chevron recordings where they film themselves offering a bribe? Were the meetings taped for Chevron to discredit the trial?
- Chevron has admitted to being aware of the recordings prior to the fourth recorded meeting -- the only meeting where the bribes were discussed. Did Chevron script the final meeting, or in any way direct the two men to ask certain questions to develop information that would appear to be a bribery scheme?

**Questions regarding the recording of Judge Nunez's statements:**

- What evidence does Chevron have, from the tapes or otherwise, that Nunez was ever aware of a bribery scheme?
- Who arranged for the Chevron contactor Borja to meet with Judge Nunez? What was the reason given to Judge Nunez for the meeting? Did any Chevron employees, agents, or contractors facilitate the meetings between Borja/Hansen and Judge Nunez?
- What relationship, if any, did Judge Nunez have with Patricio Garcia? Had they ever had contact before the fourth meeting, as Garcia claims? Or was Garcia lying to dupe the Chevron contactor into paying him a bribe?

**Questions regarding Diego Borja's role in the recordings:**

- Was Borja acting on his own in setting up meetings with Judge Nunez and Patricio Garcia, or acting on behalf of Chevron?
- How did Borja come into contact with Garcia? Who introduced them? Did Chevron's local legal office in Quito arrange or otherwise facilitate the introduction?
- Did Chevron make any promises to Borja in exchange for setting up and secretly recording the meetings, or at least the fourth meeting? Was relocation to the U.S. and payment of legal fees for a lawyer part of a promise Chevron made to Borja in

exchange for the tapes or in exchange for executing Chevron's script in the fourth meeting?

- Was Borja's bribery scheme a ruse to help Chevron, or was it really an attempt to secure a remediation contract for Hansen as the company maintains? If the latter, why would Borja record himself committing a criminal act?
- What contact did Borja have with Chevron's local legal office handling the Lago Agrio environmental trial? Did this office play any role in arranging for Borja to set up the meetings in an effort to taint the trial?
- In its press materials, Chevron did not disclose that Borja had actually worked as a Chevron technician during judicial inspections in the environmental trial where the company faces a \$27 billion liability. Why did Chevron not disclose this critical fact?
- Given that Borja worked on the Lago Agrio trial, what contacts did he have with Chevron's local legal office and lead Ecuadorian lawyer, Adolfo Callejas?
- Chevron admits it paid Borja money to resettle him in the United States and that it continues to support him with a salary and funds for living expenses and transportation. How much money was Borja paid? Did he receive any other benefits by moving to the U.S., and if so, from whom? What has Chevron done to assist him find employment?
- When did Chevron first tell Borja it would relocate him to the United States? What reason did it give?
- Chevron says Borja was relocated for safety reasons. What safety reasons, given that he left Ecuador several weeks before the videos were disclosed? Where is the evidence that Borja's safety was questioned? What did Chevron do to help Borja secure a visa to live in the United States? Did Chevron mislead U.S. immigration authorities to help Borja secure a visa?
- Did Chevron help secure Borja a visa to live and work in the United States? What were the reasons given? Were those reasons in fact true? Where is the visa application?

**Questions regarding Wayne Hansen's role in the recordings:**

- Did Hansen receive any benefit from Chevron for providing the video recordings?
- Why is Hansen never seen on the video recordings?
- What contacts did Hansen have with Chevron representatives in Ecuador during the course of the environmental trial?
- How does Hansen know Borja? How did Hansen and Borja meet Garcia?
- Is Hansen really a remediation expert? What remediation projects in the oil industry, if any, has he worked on and in what capacity?
- What ties, if any, does Hansen currently have to Chevron? What relationship has Hansen had to Chevron or Texaco in the past? What ties, either current or past, does Hansen have to Texaco or any individual working for Texaco?

- Did Hansen violate U.S. or Ecuadorian laws by participating in a bribery scheme to receive a remediation contract? Did he violate the law by trying to make the tapes to undermine the trial, so Chevron would not have to pay a judgment?
- Was Hansen qualified to engage in environmental remediation, or was he posing as someone who worked on behalf of a remediation company to further a scheme devised by Chevron to make it look a bribe was taking place?
- Why is Chevron paying Hansen's legal fees?
- Will Chevron make Hansen available for questioning?

#### **Questions regarding Patrico Garcia:**

- While he purported to act on behalf of Ecuador's government, Chevron has presented no evidence he actually was a government official or otherwise acting in an official capacity. Does any such evidence exist?
- Chevron claimed Garcia was arranging a bribe to fix the trial against Chevron. What evidence does Chevron have that Garcia was acting on behalf of Ecuador's government?
- Chevron also has presented no evidence Garcia had any contact with Judge Nunez, despite claims by the company in its press materials. Does any such evidence exist?
- Chevron also has presented no evidence Garcia has had any contact with President Correa personally, President Correa's sister, or any official in his government, despite claiming that he did in their press materials. (President Correa has publicly asserted he had no knowledge of any discussions.) Does any such evidence exist?
- Was Garcia a corrupt individual trying to dupe the Chevron contractor into paying a bribe by lying about any connection to the judge or Correa?

#### **Questions regarding Chevron's possession of the video recordings:**

- Chevron claims the videotapes fell into its hands. Will Chevron disclose all the circumstances surrounding how the tapes fell into its hands? Who contacted Chevron? Who in Chevron received the contact? What date did it occur? Was it with a Chevron representative in Ecuador, or in the United States?
- Did Chevron know of the scheme to secretly tape the judge before it received the recordings? What did it know about the scheme before it received the recordings?

#### **Inaccurate Translations and Transcriptions**

- There are a number of inconsistencies in Chevron's translations of the video, all of which seem to favor Chevron. Judge Nunez asserts clearly that the formalities of the appeals process must be observed, yet Chevron claims he said that the appeals process is a mere formality. Why did Chevron provide an inaccurate translation of this critical comment?

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