

Former SNC-Lavalin executive Bebawi guilty on all charges in international corruption case

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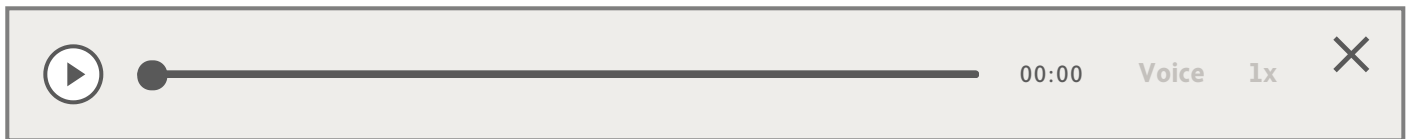
MONTREAL

PUBLISHED DECEMBER 15, 2019

UPDATED 24 MINUTES AGO

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A former executive of SNC-Lavalin Group Inc. has been convicted of corruption charges relating to the company's dealings in Libya, one of several cases that have severely damaged the reputation of a Canadian corporate pillar.

A jury in Montreal has found former SNC executive vice-president Sami Bebawi guilty of all five charges he faced, including bribing a foreign public official, fraud and laundering the proceeds of crime. A hearing on sentencing is scheduled to take place Dec.19.

Mr. Bebawi, 73, is so far the only person convicted in Canada in connection with a wide-reaching investigation by Canadian and Swiss police into SNC's business activities with the regime of the late Libyan dictator Moammar Gadhafi in the early 2000s.

Riadh Ben Aissa, SNC's former point man in Libya and Mr. Bebawi's subordinate, served time in a Swiss prison after pleading guilty to charges in the European country including corruption of a foreign public official. He signed an agreement to co-operate with the RCMP while detained and was the star witness in the Bebawi trial. A related case against former SNC controller Stéphane Roy was dropped earlier this year because of delays.

Montreal-based SNC-Lavalin has also been charged with bribery and fraud as a result of the police probe into its past business in Libya. It faces a separate trial that will likely take place next year, barring an intervention by the federal Attorney-General. The engineering giant has pleaded not guilty. It has said the charges have stripped it of at least \$5-billion in lost revenue and continue to damage its reputation internationally.

Earlier this year, the Liberal government was embroiled in controversy over allegations that Prime Minister Justin Trudeau and senior officials put pressure on Jody Wilson-Raybould, then-justice minister and attorney-general, to overrule federal prosecutors in favour of offering SNC a deferred prosecution agreement. Under such agreements, corporations agree to pay a fine and put in place more rigorous ethics and compliance systems in exchange for a suspension of criminal proceedings.

The conviction of Mr. Bebawi marks a victory for Canadian law enforcement and legal authorities, who have plowed significant resources over several years looking into alleged corruption in the upper ranks of SNC-Lavalin with little to show for it until now. Canada will also bolster its reputation internationally, where it has been seen as a laggard on fighting corruption.

“With this, Canada can start to say that we’ve got effective enforcement against individuals,” said John Boscariol, a lawyer with McCarthy Tétrault who teaches anti-corruption law at the University of Western Ontario. “Executives of Canadian companies will think twice before engaging in this activity because they know now that they can’t hide behind a company.”

Mr. Bebawi’s trial focused on allegations that SNC-Lavalin transferred about \$113-million to shell companies that were used to pay people who helped the company collect money and secure contracts in Libya beginning in the late 1990s. Prosecutors alleged that Mr. Bebawi played a pivotal role in a bribery scheme and also enriched himself in the process.

SNC was one of the most active international companies operating in Libya at the time, in part because of the ties Mr. Ben Aissa nurtured with the Gadhafi family. The clan ran the country like a mafia-style kleptocracy before being ousted in the wake of the 2011 Arab Spring uprising, a Dartmouth College professor testified during the trial.

The Bebawi trial provides a window into what’s to come as the SNC-Lavalin case unfolds, with some of the same evidence likely to be presented. The guilty verdict puts pressure on the company to prove that Mr. Bebawi and Mr. Ben Aissa were rogue executives, as it has asserted, and to distance itself from their actions.

“If the evidence can convict an individual involved then it increases the likelihood it will support a conviction against the corporation,” said Norm Keith, a lawyer who practices white-collar-crime litigation for Toronto-based firm Fasken. “This should be a good indicator of the strength of the case against the corporate defendant.”

But just because Mr. Bebawi was found guilty doesn't mean SNC-Lavalin will be, some experts say.

"This is a preview, with the caveat that it will have to be viewed through the lens of the test of 'scope of authority,' " said Kenneth Jull, an expert in corporate compliance with law firm Gardiner Roberts in Toronto. The key factor in SNC's criminal trial will be whether Mr. Bebawi or Mr. Ben Aissa, or both, took illegal actions that benefited the company and to what extent it endorsed those actions or was wilfully blind to them, he said.

"Corporate criminal liability is complicated. It has its own sections in the Criminal Code with their own tests and you have to look at that to evaluate it," Mr. Jull said. Canada has no case law that has dealt with the "scope of authority" test, he said.

The two cases are separate, said Richard Roy, prosecutor in the SNC-Lavalin corporate case. "The [Bebawi] verdict in an by itself has no impact," he said.

Mr. Bebawi is the fourth individual convicted under Canada's Corruption of Foreign Public Official Act, passed into law by Parliament in 1998.

"The jury went through all the evidence and after four days of deliberations rendered justice in this case," lead prosecutor Anne-Marie Manoukian said in a brief interview Sunday at the Montreal courthouse.

In Mr. Bebawi's trial, court heard details about interactions with Mr. Gadhafi's son, Saadi, who was allegedly able to facilitate business dealings for SNC in Libya. Among the kickbacks to the younger Mr. Gadhafi was a U.S.-made luxury yacht bought for \$25-million after the company landed a major contract, the court heard.

Mr. Ben Aissa testified that Mr. Bebawi maintained pressure on him to do what was needed to land Libyan contracts. All decisions went through Mr. Bebawi, he said.

Mr. Bebawi presented no defence and did not testify. His lawyers argued that he was made a scapegoat for the actions of SNC-Lavalin and its chief executive at the time, Jacques Lamarre. The jury's verdict suggests it did not accept that version of events.

"In its simplest expression, this case is about getting lucrative contracts for SNC-Lavalin, regardless of the methods," Ms. Manoukian told jurors in her closing arguments. "The undercurrent to this case is greed."

Among the prosecutorial efforts tied to SNC-Lavalin in recent years is a case against three former company managers accused of bribery in Bangladesh, which was dismissed in 2017. Former SNC chief executive Pierre Duhaime was sentenced to serve 20 months of house arrest earlier this year after pleading guilty to lesser breach of trust charges for his role in the McGill University Health Centre bribery scandal.

With reports from The Canadian Press

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