

SNC-Lavalin made threats against Spanish bid rival, Quebec corruption inquiry told

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– 21.05.2014 POSTED IN: CANADA NEWS

MONTREAL — Miguel Fraile had never met Riadh Ben Aissa before he was called to SNC-Lavalin Inc.'s Montreal headquarters in January 2010. The men were professional rivals, heading competing bids to build McGill University's super-hospital, but Mr. Fraile of the Spanish firm OHL agreed to meet. He never dreamt the president of SNC's construction division had invited him to a dressing down.

"He started by asking, who am I? Who is OHL? We are nothing. We are nobody. Montreal is SNC's city, the [McGill University Health Centre] is its project," Mr. Fraile recounted Wednesday as the Charbonneau commission into corruption continued its study of the \$1.3-billion hospital project.

He said Mr. Ben Aissa told him OHL must withdraw from the bidding, which was set close in March. SNC is a "powerful company in Canada," he was told, and if OHL dropped out, the two firms might be able to team up in the future.

"He said that if we won the contract, he would make our lives impossible." Mr. Fraile said he rebuffed the threat, telling Mr. Ben Aissa, "If we win, we win."

The menacing sense of entitlement reflected in Mr. Ben Aissa's alleged tirade was also evident among senior executives at the MUHC, a senior hospital official told the commission.

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In the fall of 2009, MUHC selection sub-committees were studying the two bids. Imma Franco, associate director for planning of programs and services at the MUHC, was on two key committees, including one examining the proposed hospital's functionality — how it would actually deliver care. That committee, like almost all the others, had concluded the OHL proposal was superior.

Her boss, Yanai Elbaz, director of the redevelopment project and right-hand-man to MUHC chief executive Arthur Porter, paid her a visit. "He took care to remind me that I had to do what the boss wanted, and to remind me where my paycheque was coming from," she said. "He was referring to the boss, who was Dr. Porter." The message was that she should use her influence among committee members to sway them in favour of SNC. She refused, and soon afterwards asked to be transferred to another department where she would not work under Mr. Elbaz.

SNC ended up winning the contract, and police allege that \$22.5-million in bribes paid by SNC to Dr. Porter and Mr. Elbaz helped secure the deal. The two men, along with Mr. Ben Aissa and former SNC chief executive Pierre Duhaime, are among eight people facing corruption charges in relation to the project.

Both Ms. Franco and Mr. Fraile said that at the time, they got the feeling something was not right, but they did not suspect corruption. Ms. Franco said she did not lodge any complaint when she saw her boss trying to influence the supposedly independent evaluation of the proposals.

"I didn't know who else to turn to, when it was my boss and his superior who were pointing us in a certain direction," she said. Instead she reiterated to committee members the importance of professionalism and the committee maintained its score in OHL's favour. Faced with an evaluation against SNC, Dr. Porter used a minor change in the composition of the OHL consortium as a reason to disqualify its bid.

On Dec. 3, 2009, Dr. Porter recommended to the board that it accept the SNC bid. When Ms. Franco learned the news after the meeting, she was dismayed because the entire evaluation process had gone out the window. "A lot of effort had been put into these evaluations. People did it very professionally, very meticulously, and they were not taken into consideration in the end," she said.

Dr. Porter, who is now fighting extradition to Canada from a Panama jail cell, left the MUHC in December 2011, a month after the National Post exposed his business dealings with notorious lobbyist Ari Ben Menashe.

When OHL heard through the grapevine that SNC was celebrating its victory in December 2009, its lawyers sent a letter to the provincial government agency overseeing the project claiming there had been a "flagrant violation" of the bidding procedure.

The government insisted on a second round of bids with a deadline in March 2010. At this point, Ms. Franco, testified, Dr. Porter and Mr. Elbaz, "took over" the selection process. She was not asked to sit on any of the selection sub-committees.

"They pretty much controlled it," she said. "Without having to say anything, it was clear that they did not want me to take part in the second phase."

On April 1, 2010, SNC was formally announced as the winner, even though its bid was \$60-million higher than OHL's.