

BANANA PUDDING

The NYT has a funny article out about the involvement of bigtime Republican lawyer Roderick Hills in directing Chiquita to continue bribing a Colombian right wing militia even after the State Department listed the organization as a terrorist organization. I say funny, most of all, because Neil Lewis bills the competing narratives surrounding Hills' actions as a "Rashomon-like set of narratives," but Lewis really provides only one of those narratives—Hills'. Because, you know, Rashoman would definitely have been the same movie if Kurosawa had only provided one viewpoint.

The other reason it's interesting is because it suggests Michael Chertoff may have advocated Chiquita to break the law so Chiquita could provide intelligence on the terrorist organization they were bribing—which looks more like a Chertoff-sponsored suggestion of a way to evade the law on funding terrorists.

So here's the side of the story Lewis doesn't provide. The proffer on Chiquita's action offers the following picture. At the beginning of 2003, Chiquita's outside counsel told Chiquita—in no uncertain language—to stop paying bribes to the terrorists:

Must stop payments.

Bottom Line: CANNOT MAKE THE PAYMENT

You voluntarily put yourself in this position. Duress defense can wear out through repetition. [Business] decision to stay in harm's way. Chiquita should leave Columbia.

Pretty clear, right? On April 3, 2003, after Chiquita's law firm had been warning the company to stop bribing terrorists for at least two months, Hills and a Chiquita executive told the board that Chiquita was making payments to a designated terrorist group. Even though one

board member favored withdrawing from Colombia, the board instead decided to disclose to DOJ they had been paying terrorists.

At about the same time, Chiquita's outside lawyers recorded a conversation with Hills, in which said outside lawyer interpreted, "[Hills'] opinion is just let them sue us, come after us."

And then, on April 24, Hills, that Chiquita executive, and the outside lawyers met with DOJ. They,

stated that defendant CHIQUITA had been making payments to the AUC for years, and represented that the payments had been made under threat of violence. Department of Justice officials told [Hills] and [the Chiquita executive] that defendant CHIQUITA'S payments to the AUC were illegal and could not continue. Department of Justice officials acknowledged that the issue of continued payments was complicated.