

Corruption Digest

July 2010

Welcome to Dorsey & Whitney's monthly corruption digest. In this digest, we draw together news of enforcement activity throughout the world and aim to reduce your information overload. Our London and New York offices edit the digest and select the most important material so that you can use this digest as a single source of information.

Dorsey & Whitney also offers a US/UK corruption workshop featuring experts from both countries that can be tailored to individual organisations.

If you have any questions or want to learn about the corruption workshops, feel free to call either Nicholas Burkill in London or Nick Akerman in New York. Their contact information appears at the end of this digest.

Corruption issues are also addressed in the Anti-Fraud Network's newsletters: see <http://www.antifraudnetwork.com> for current and archived material; see also the Computer Fraud website at <http://computerfraud.us>.

■ THE USA

Investigations

Since the report in the June Corruption Digest, the Securities and Exchange Commission (SEC) has commenced its controls compliance investigation of pharmaceutical and other companies doing business in or with countries designated as state sponsors of terror. The Department of Justice (DOJ) has also been conducting investigations of pharmaceutical companies making payments to foreign officials in countries other than those designated as state sponsors of terror. The DOJ and SEC have also increased Foreign Corrupt Practices Act (FCPA) enforcement with the Treasury and Justice departments.

Smith & Wesson, the largest manufacturer of handguns in the U.S., is under investigation by the DOJ for potential FCPA violations. Smith & Wesson have confirmed that earlier this year one of its Vice Presidents was arrested in the FCPA sting case in which 22 individuals were arrested in relation to an alleged bribery scheme. Smith & Wesson have also reportedly admitted that there could be additional indictments. If found guilty by the DOJ, the company could be prevented from bidding on U.S. military or law enforcement contracts and could also risk debarment by the U.S. Department of State.

Following Avon Products Inc.'s costly internal investigation on FCPA compliance for its Chinese operations, it has now been reported that the investigation has extended to at least four of its international business units outside China.

Settlements

A joint venture between Snamprogetti Netherlands B.V (Snamprogetti), Kellogg Brown & Root Inc. (KBR), Technip S.A (Technip) and the Japanese engineering and construction company (JGC) was formed to bid for and to obtain engineering, procurement and construction (EPC) contracts worth more than \$6 billion in Nigeria. The joint venture was awarded four EPC contracts by Nigeria LNG Ltd (NLNG) between 1995 and 2004 to build liquefied natural gas facilities on Bonny Island. Snamprogetti authorised the joint venture to hire two agents to pay bribes to a range of Nigerian government officials to assist the joint venture in obtaining the EPC contracts.

Snamprogetti and its parent company at the time ENI, SpA (ENI), are the latest out of the four joint venture companies to be charged by the SEC with multiple violations of the FCPA over the Nigerian bribery scandal. Snamprogetti and ENI jointly agreed to pay \$125 million to settle the SEC's charges. Snamprogetti agreed to pay an additional \$240 million to settle a separate criminal penalty imposed by the DOJ.

Snamprogetti has also entered into a deferred prosecution agreement with the DOJ and if the company satisfies the terms of the agreement, the charges against it will be dismissed. In late June, Technip agreed to pay a total of \$338 million to the SEC and the DOJ for scheming to bribe Nigerian government officials to secure the EPC contracts. Technip also agreed to a deferred prosecution agreement, the filing of criminal information and to retain an independent compliance monitor for a two year period. KBR pleaded guilty last year and agreed to pay £579 million in relation to the charges it had paid bribes to the Nigerian officials. The total sanctions against the joint venture companies to resolve charges for its participation in the \$6 billion Nigerian bribery scandal comes to more than \$1.28 billion.

Enforcement Trends

Following the U.S. and UK authorities' recent investigation into the FCPA violations of Innospec Inc., the company has reportedly removed those individuals who were involved with the violations, put in place a new management system, established a compliance program and is in the process of appointing an independent corporate compliance monitor. In addition extradition proceedings to the U.S. are pending against individual executives.

Prosecutions

The SEC has filed charges against Veraz Networks, Inc., a Californian telecommunications company, for FCPA violations. According to the complaint filed, the violations relate to improper payments made to foreign officials in China and Vietnam to win business.

On 8 April 2009, Mr Flavio Ricotti, a former executive of California based valve company Control Components Inc. (CCI), and five other former executives of CCI were all charged for their participation in the foreign bribery scheme to secure contracts by bribing officials in India and various other countries. The indictment charges Mr Ricotti with allegedly causing CCI employees and agents to make corrupt payments totalling approximately \$750,000 to officers and employees of state-owned companies and \$380,000 to officers and employees of private companies. Mr Ricotti has been charged with

one count of conspiracy to violate the FCPA and the Travel Act, one count of violating the FCPA, and three counts of violating the Travel Act. The counts carry a maximum penalty of five years in prison and a fine of the greater of \$250,000 or twice the value gained or lost. The other five former CCI executives who are also charged include Mr Stuart Carson, Mr Hong (Rose) Carson, Mr Paul Cosgrove, Mr David Edmonds and Mr Han Yong Kim. The trial is scheduled to begin in November 2010.

THE UK

Bribery Act

The Government has announced that the Act will come into force in April 2011. A consultation is to be held from September 2010 on the government's guidance on 'adequate procedures', with the guidance to be published in early 2011. More details can be obtained from Dorsey's corruption workshop (see the introduction to this digest).

Briton Freed From Jail

Following the report in the May Corruption Digest, Bill Shaw, the Kabul manager of British security company G4S, who was given a two year sentence for bribery, has been cleared by the Afghan Court of Appeal and released.

Crown Prosecution Service Officer Jailed For Taking Bribe

Safraz Ibrahim, a senior Crown Prosecution Service officer in Wales, has been jailed for accepting a bribe of £20,000, to use his position to discontinue an assault charge. The case was entirely fictitious and Mr Ibrahim was caught after a police sting was set up by undercover officers from the Serious Organised Crime Agency. Swansea Crown Court heard that Mr Baker, the undercover police officer, had admitted breaking the law to Mr Ibrahim but was told by Mr Ibrahim that he had the power to stop the case. Mr Ibrahim also admitted to the charge of attempting to pervert the course of justice between May and August 2009 by improperly taking steps to become the reviewing lawyer in another case.

Investigation By Global Witness On Carbon Emission Deal Leads To Arrest

The CEO of the UK based Carbon Harvesting Corporation (CHC), Mike Foster, has been arrested by the City of London Police's Overseas Anti-Corruption Unit, following an investigation by Global Witness into a bribery allegation in Liberia involving the trade of carbon credits. In 2007, it is alleged that CHC negotiated with the Government of Liberia to pay \$1 million in land rental for the allocation of a 400,000 hectare forest carbon concession in order to sell carbon credits to clients who want to offset their own carbon emissions. Global Witness raised concerns regarding the deal following meetings with Mr Foster who made reference to irregular payments of \$2.5 million which were allegedly made to a Liberian Government official and a politician to secure the concession. Mr Foster informed Global Witness that CHC did not condone the bribery.

Fine For Corrupt City Stockbroker

Simon Eagle, a former city stockbroker was given a £2.8 million fine for his part in a share ramping scheme. The scheme involved Mr Eagle buying 85% of AIM listed Fundamental e Investments in 2003; he then got a broker to secretly sell 75% of the company's shares, artificially raising the share price, and leaving him with 10% of a very highly valued company. Very few of the shares were actually paid for and were traded from client to client, often without the client's knowledge, and therefore deliberately misleading the markets. The Financial Services Authority said that Mr Eagle showed 'breathhtaking disregard' for clients who were now left with individual debts of more than £9 million, and as a result banned him from working in the industry.

Single Agency To Tackle White Collar Crime

The Government is considering the creation of a new agency from the enforcement division of the Financial Services Authority, the Serious Fraud Office, the City of London Police's Economic Crime Directorate and the Fraud Unit at the Crown Prosecution Service.

REST OF THE WORLD

Africa

Kenya's Anti-Money Laundering Act 2009 has now come into force. The new law introduces measures to identify, trace, freeze and seize proceeds of crime. The new law permits Kenya's Attorney General to cooperate with the international community in seizing assets of suspected money launderers. Previously, banks, stockbrokers and insurance firms were not compelled to know their customers and pass information about suspected money laundering to the relevant authorities. Now, they are required to know their customers and pass such information on to the relevant authorities.

It has been reported that after a four and a half year investigation, South Africa's former police chief and ex-president of Interpol, Jackie Selebi, has been convicted of corruption for accepting bribes totalling more than \$197,000 between 2000 and 2005 to turn a blind eye to organised crime.

Australia

FIFA confirmed the probe into the bribe claims against the allegations that Australian World Cup bid officials handed out jewellery to the wives of the FIFA executive committee members and paid travel costs for Trinidad and Tobago's under 20 team in order to win votes in the battle to host the 2022 World Cup.

Last year Gordon Nuttal, the former Queensland Cabinet Minister, was found guilty of receiving more than \$360,000 in secret corrupt payments and was sentenced to seven years in jail. As part of a deal between Mr Nuttal and the Director of Public Prosecution, which was formalised earlier this month by Queensland Supreme Court Judge Peter Applegarth, Mr Nuttal agreed to repay more than \$350,000. As part of the order, Mr Nuttal also agreed to pay more than \$90,000 in interest which he had avoided accruing on the overdrawn bank account where the secret payments were made. Mr Nuttal also faces trial on a further corruption related charge in September. Under the agreement, if he is found guilty, Mr Nuttal has pledged to set aside \$191,500 and will be required to repay the alleged payments and court costs.

China

China has executed the top justice official Wen Qiang for accepting bribes of more than 12 million Yuan (£1.16 million).

Several senior officials in China's aviation sector have lost their jobs following corruption revelations which have been traced back to the early 1990s, where allegedly a bribery ring controlled the key decisions affecting Chinese and foreign airlines. The investigations have alleged that the administrative awards of domestic flight routes, as well as take-off and landing slots at the nation's airports, were based on bribes. Two executives at the state-owned China Southern Airlines have been detained as part of the probe into corruption in the aviation industry.

France

In France, the 11th chamber of the Paris Criminal Court convicted the former dictator of Panama, Manuel Antonio Noriega, for money laundering and sentenced him to seven years in prison. Mr Noriega was also ordered to pay \$2.9 million.

India

The trial in the biggest ever accounting fraud in India commenced in June 2010, after Satyam Computer Services' former Chief Executive B. Ramalinga Raju's confession that the company's revenue and profits had been falsely constructed for years. Mr Raju and his relatives have allegedly made millions deceiving investors through fraudulent dealings in shares. In the Central Bureau of Investigation's findings the company had inflated non-existent cash, understated liability, over stated debt and executed projects in the name of non-existent companies. However, the trial has begun without Mr Raju, the prime accused in the fraud, as he has got an exemption on the grounds of ill health and so the court has allowed the proceedings to be split, separating out Mr Raju.

Indonesia

The Corruption Eradication Commission (CEC) arrested an official of the Supreme Audit Agency for accepting bribes from the Bekasi municipality.

The CEC suspects that bribes were paid to pass financial reports with an unqualified opinion.

Italy

The Italian financial police have arrested Chinese and Italian nationals and have seized control of several companies and a range of assets in connection with an alleged Chinese money laundering syndicate in Italy. The syndicate is said to have transferred hundreds of millions of Euros from criminal activities to China through more than 100 companies.

Cardinal Crescenzo Sepe and the former transport minister, Pietro Lunardi, are alleged to have made cut price property deals which included Mr Lunardi buying a building in Rome from Cardinal Sepe's department in 2004. Despite his immunity as a Vatican diplomatic passport holder, Cardinal Sepe is willing to co-operate with a magistrate's investigation into a major corruption scandal involving prominent politicians.

Jordan

Jordan's military court has sentenced four men including former finance minister Adel Qudah to three years in jail for bribery. Reportedly, they received bribes from a businessman to secure a \$2.1 billion tender for an expansion project on an oil refinery with the Jordan Petroleum Refinery Company. The four men sentenced remain on bail until the Court of Cassation issues a final verdict.

Kosovo

Eulex, the European Union Rule of Law Mission in Kosovo, is investigating Kosovo's Transport Minister, Fatmir Limaj, for corruption. Allegedly Fatmir Limaj awarded contracts without competitive tenders and the EU officials allege that more than 80 million Euros has been lost by the Transport Ministry.

Russia

The former head of the transport investigation department of the Prosecutor General's Office Investigation Committee, Ivan Kozhevnikov, was arrested in Moscow on bribery charges in

connection with the high profile case involving his deputy, Grigory Domovets. Mr Domovets was arrested and charged with extortion in June for taking a bribe of \$1 million from a lawyer to allow a contraband suspect to avoid prosecution. Reports suggest that Mr Domovets was just a mediator in this criminal scheme and it is Mr Kozhevnikov for whom the money was intended.

Serbia

Serbian police have arrested several people, including the head of the Oncology Institute Nenad Borojevic, three of his employees and multinational pharmaceutical employees, for alleged corruption. Reportedly, they have all been accused of accepting bribes estimated in excess of 200,000 Euros (\$610,000) from representatives of Swiss companies Roche and PharmaSwiss, as well as from the Anglo-Swedish company AstraZeneca.

The Serbian Prime Minister Mirko Cvetkovic and the head of the Anti-Corruption Agency, Zorana Markovic, signed a memorandum of understanding and co-operation in fulfilling the obligations under the anti-corruption strategy and the action plan for its implementation. Serbia's latest move in the fight against corruption was to make public the assets of some of the country's officials.

Ukraine

The Ukrainian Prosecutor General, Oleksandr Medvedko, and Attorney General of Portugal, Fernando Jose Pinto Monteiro, have signed a memorandum of understanding on strengthening co-operation in fighting cross-border crimes and money laundering.

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