



ANTI-CORRUPTION DIGEST

August 2016

Welcome to Dorsey & Whitney's monthly Anti-Corruption Digest. Anti-corruption enforcement crosses boundaries like no other, so keeping up to date is more important than ever. In this digest, we draw together news of enforcement activity throughout the world and aim to reduce your information overload. Our London, Minneapolis, New York and Washington DC offices edit the digest and select the most important material so that you can use this digest as a single source of information.

■ THE USA

Investigation into Och-Ziff Capital Management Results in Arrest of Son of Former Gabon Prime Minister, Potential Settlement over \$400 Million

An alleged corruption matter involving a U.S. hedge fund, Och-Ziff Capital Management, has resulted in criminal conspiracy charges against the son of the former Prime Minister of Gabon. The defendant is alleged to have acted as a "fixer" for a joint venture between Och-Ziff and a Turks and Caicos Islands corporation.

According to the complaint, the defendant secured mining opportunities by bribing government officials in Niger, Guinea, and Chad. The bribes are said to have involved large sums of cash, rental of an Airbus jet for a government official's use and a gift of a luxury Mercedes Benz sedan. In return for his services, the defendant reportedly received at least \$3.5 million (£2.7 million). At one point, the defendant threatened to expose the bribery scheme unless his ownership interest in certain

mining operations was assured, telling accomplices "I will let the world know what kind of international crooks you are."

Och-Ziff has been in negotiations with the Department of Justice over the alleged FCPA violations. Earlier this month, the company disclosed that it allocated \$414 million (£315 million) for a potential settlement. The company's Chief Financial Officer said that settlement discussions are in advanced stages. According to reports, the settlement may permit Och-Ziff's main business to avoid conviction by entering into a Deferred Prosecution Agreement, and instead an overseas business unit would plead guilty to charges.

SEC Agrees to Settlement with Key Energy Services after Cooperation, Remedial Acts

A Houston based corporation, Key Energy Services, has reportedly agreed to pay \$5 million (£3.8 million) in disgorgement for violations of the FCPA's books-and-records provisions. An [SEC investigation](#) confirmed that the company's Mexican subsidiary, Key Mexico, paid bribes through a purported

“consulting agreement,” to an employee of Mexico’s state-owned oil company, Pemex. In return for the bribes, the employee disclosed inside information to Key Energy, which it used to gain advantage in contract negotiations with Pemex.

Key Mexico recorded the bribe payments as legitimate business expenses, which were then incorporated into Key Energy’s accounting records. The SEC found that Key Energy learned of Key Mexico’s relationship with the purported “consulting firm” as early as 2011, but failed to conduct due diligence on the relationship. In 2014, Key Energy uncovered the relationship between the “consulting firm” and the Pemex employee.

According to an [SEC press release](#), the government accepted the settlement offer of \$5 million (£3.8 million) after considering the “cooperation Key Energy afforded to the SEC and the remedial acts undertaken by Key Energy.”

SEC and DOJ Resolving FCPA Inquiries Related to South American Aerospace Companies

In a recent [securities filing](#), Embraer, the Brazilian airplane manufacturer, disclosed that it has set aside \$200 million (£152 million) for payment to the U.S. relating to “allegations of non-compliance with the U.S. Foreign Corrupt Practices Act.” The potential payment would mark the end of a six-year period of internal investigations across multiple countries, and over a year of discussions with DOJ.

According to Embraer’s statement, the final resolution is likely to include a Deferred Prosecution Agreement and an independent monitor to “assess the Company’s compliance with the terms of any agreement that may be reached with the U.S. authorities.” Embraer’s disclosure also stated that there are “related proceedings” in other countries that could cause other substantial sanctions.

In a separate investigation, the SEC and DOJ settled with LATAM Airlines Group, an airline company in Chile. To resolve the criminal and civil charges, LATAM will reportedly pay over \$20 million (£15.2 million) to U.S. Authorities. DOJ [alleged](#) that the company violated the internal controls and books and records provision of the FCPA. The SEC [stated](#) that the company “used a sham consulting agreement to make its financial reporting appear as though the company was funding a study rather than steering money to settle labor disputes.”

The consulting agreement was worth \$1.15 million (£880,000), and called for the consultant to conduct a study. In fact, the study never occurred. U.S. officials could assert jurisdiction over the wrongdoing because payments related to the agreement routed through US bank accounts, and LATAM and its predecessor company were traded on the New York Stock Exchange. Along with the financial penalties, LATAM must also enhance its compliance program and retain an independent monitor.

THE UNITED KINGDOM

Former Royal Property Manager Found Guilty of Corruption

A former deputy property manager for the British Royal Household has been found guilty of corruption.

Ronald Harper was convicted of accepting over £70,000 (\$92,000) in payments in exchange for awarding lucrative contracts regarding mechanical and electrical work in Buckingham Palace, the Queen’s Gallery, St James’ Palace and Kensington Palace.

Luke Bulpitt, Specialist Prosecutor in the Crown Prosecution Service Special Crime Division, said in a statement:

“Ronald Harper abused his position of trust for his own personal gain and to the detriment of the interests of the Royal Household.”

Mr. Harper is yet to be sentenced, however, Judge Nicholas Loraine-Smith confirmed that he was “certainly going to go to prison for quite a long time”.

Airbus Group SE investigated by SFO over Corruption Allegations

Airbus Group SE have confirmed that the SFO have opened a formal investigation regarding the company’s use of third-party consultants.

The SFO disclosed in April that it was seeking information on how Airbus used its overseas agents following allegations of fraud, bribery and corruption and was yet undecided about whether or not it will open a formal investigation. Whilst the use of overseas agents is permitted, it needs to be disclosed.

This is the SFO’s second investigation into Airbus’ activities. Since 2012, they have been investigating the business dealings of an Airbus unit in Saudi Arabia.

Airbus has confirmed that they are cooperating with the SFO on both investigations.

Logistics and Shipping Company F.H. Bertling Ltd under SFO investigation

F.H. Bertling Ltd. is under investigation by the SFO for its dealings in Azerbaijan. This comes a month after they were charged by the SFO with conspiracy to pay bribes in Angola.

In a regulatory filing with Companies House on 30 September 2015, F.H. Bertling said that it had handed in a self-report to the SFO regarding “principally historical trading practices in Azerbaijan” for operations in the country in 2011 and had since “undertaken significant remedial steps, including management changes, the implementation of an

enhanced ethical compliance program as well as training and development initiatives.”

It is said that many companies are now choosing to self-report as soon as potential issues are uncovered given the increased use of Deferred Prosecution Agreements.

Corporate investigation specialists explained that it was likely that the SFO arrived at the bribery payments in Angola from the company’s self-report.

Soma Loses Court Bid against the SFO

The oil and gas company Soma Oil & Gas Holdings Ltd. has lost a court bid to end a bribery investigation against the company.

The SFO opened an investigation against Soma in August 2015 regarding allegations of illegal payments of approximately \$700,000 (\$920,000) to Somali officials under a capacity-building program with the country’s Petroleum Ministry. Soma argued that the firm may become insolvent if the investigation continues.

Soma’s lawyer, David Perry, explained to the court:

“The company faces an existential threat to its existence in circumstances where it looks, we would say on all the information available, it will be exonerated. There is a risk of death to the company.”

However, the SFO explained that the investigation had to continue as it was now exploring allegations unrelated to the capacity-building program that came to light in December 2015. They would not disclose details in respect of these allegations.

Soma’s application was denied because the judges did not see any “prospect of success.”

■ THE REST OF THE WORLD

Egypt

It has been reported that the arrest of 13 people has been ordered by the Egyptian public prosecutor, pending investigation into an alleged corruption matter regarding the procurement of wheat.

Egypt is the world's largest wheat importer and therefore pays high prices for home-grown produce in order to encourage local farmers to grow the crop. According to reports, officials have claimed that in this year's harvest, over 2/5 of locally produced wheat exists only on paper.

It is alleged that local wheat suppliers have worked with government employees to falsely claim almost 621 million Egyptian pounds (\$70 million/£53 million) worth of grain that doesn't exist. The 13 individuals facing arrest stand accused of profiteering, forgery and enabling the embezzlement of public funds.

The Egyptian parliament set up a fact-finding commission to look into wheat procurement corruption allegations. The report was published earlier this month, with the conclusion that some 200,000 tonnes of wheat was missing at ten private storage sites visited by the commission.

Pressure is now mounting on minister of supplies, Khaled Hanafi, to resign as the report has brought an unprecedented level of scrutiny to his management with many arguing that his policies have allowed corruption to flourish.

Mr Hanafi appeared before parliament earlier in the month on a separate issue after being accused on television of using 7 million Egyptian pounds (\$790,000/ £590,000) in state funds to maintain a residency at a downtown Cairo hotel. He made it clear during his appearance that he had no plans to step down.

Germany

Rolls-Royce Holdings Plc's German unit is reported to be under investigation over sales across seven Asian countries. This follows a \$13.3 million (£10.1 million) settlement earlier this year regarding a corruption matter centred on sales in South Korea.

According to a German official, Stuttgart prosecutors are also investigating five people who may have had a role in suspect sales by the unit.

Stefan Wortmann, the German spokesman for Rolls Royce, said the company does not comment on ongoing investigations and stated that the unit follows a strict "zero-tolerance" approach towards any form of non-compliant action.

Indonesia

Earlier this month, the Corruption Eradication Commission (the "KPK") and the Central Statistics Agency signed a memorandum of understanding on gathering data in an effort to identify potential corruption matters. The Chairman of the KPK, Agus Rahardjo, has stated that the agreement will assist the KPK's strategy in preventing corruption.

According to reports, the KPK will provide data in respect of public facilities and sectors that have been linked to corruption or have the potential to be. In return, the KPK wants to gain a greater understanding in respect of public opinion of the attempts to prevent and curb corruption.

Independently, the KPK also announced that it has agreed to form a joint investigation team with the National Police in order to combat corruption.

Iraq

The corruption case against Parliament Speaker Salim al-Jabouri has been closed by an Iraqi court following a lack of evidence.

Defence Minister Khaled al-Obeidi accused Mr. al-Jabouri and five other MPs of attempting to influence ministry appointments and lobbying for businesses seeking contracts to sell overpriced planes, vehicles and other goods to the armed forces. Mr. al-Obeidi made the accusations whilst appearing in front of parliament to respond to separate corruption allegation brought forward against the Defence Ministry.

Malaysia

The Malaysian Anti-Corruption Agency has reportedly detained three high ranking civil servants regarding allegations of corruption, abuse of power and money laundering. Two of the civil servants hold the honour titles “Datuk” and “Datuk Seri”, which are typically reserved for high ranking or accomplished individuals.

Whilst their identities have not been released, the director of investigations, Datuk Azam Baki, confirmed that one of the individuals was serving in a government department, another in a local authority and another in a government-linked company. Mr Baki also explained:

“Following their arrest, the accounts of three individuals amounting to more than RM13 million (\$3.2 million/£2.4 million) have been frozen, comprising savings accounts and unit trusts worth between RM1 million (\$250,000/£190,000) and RM6 million (\$1.5 million/£1.1 million) of each of the three arrested. Also sealed were several luxurious condominium units including penthouses, bungalows and posh cars like Maserati, BMW and Audi, believed to be from the proceeds of corruption and money laundering.”

Russia

Former mayor Evgeny Urlashov has been sentenced by a district court in Yaroslavl to over 12 years in prison and was ordered to pay a \$900,000 (£680,000) fine for extorting a multimillion ruble bribe from a street cleaning company. Mr Urlashov’s former aide, Aleksey Lopatin, was also sentenced to seven years in prison regarding the matter. However, Dmitry Donskov, the former mayor’s deputy was fully acquitted.

According to investigative reports, in 2013, Mr Urlashov and his aides attempted to extort a bribe of over \$1.2 million (£900,000) from a local businessman who was working on a city contract, threatening not to accept work and delay payment if their demands were not met.

All, with the exception of Mr Urlashov, pleaded guilty. Mr Urlashov protested his innocence and claimed that the businessman offering him the bribe was a member of the United Russia party seeking revenge for their defeat in the mayoral elections in 2012.

Mr Urlashov’s lawyer explained that she will be appealing the ruling.

Saudi Arabia

The Dammam Control and Investigation Board is currently investigating 23 cases of corruption in the Al-Ahsa Municipality. Three of the suspects are directors of departments in the municipality.

A source close to the Dammam Penal Court stated:

“The corruption cases wasted SR68 million (\$18 million/£13.6 million) of the municipality’s budget. The Dammam Control and Investigation Board presented 395 pieces of evidence to the court. The suspects are accused of forgery and an irresponsible use of municipality’s money in various projects.”

One of the projects is reportedly building walkways and pavements in Al-Aqeer Shore. The source explained:

“The total cost of the project is SR3.9 million (\$1.04 million/£790,000). The board revealed six corruption incidents in the execution and management of this project. The corruption cases include several accounts of forgery of official documents. Two of the suspects were involved in corruption cases related to this project.”

South Korea

The pharmaceutical company Novartis confirmed that six of its former and current executives at the South Korean branch were indicted on charges of paying more than \$2 million (£1.5 million) to doctors in return for prescribing its medicine. The former chief executive of the country was among those to be indicted.

Six medical publication publishers and 15 doctors working at general hospitals were also prosecuted. According to the Korea Herald, Novartis funded academic events that were supposedly organised by the publications and then distributed to doctors’ money disguised as attendance fees and for articles that the doctors contributed to the publications during the period of 2015 to earlier this year.

A Novartis spokesman said in a statement:

“We have acknowledged and regret that certain associates in Korea conducted small medical meetings and other scientific related activities through trade journals ... we have also acknowledged that some associates supported travel to overseas congresses for some health care practitioners in a way that did not fully comply with industry standards...[The company] does not tolerate misconduct. We reject the implication that the alleged conduct was sanctioned by the most senior management of Novartis Korea.”

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

This update is provided for general informational purposes and is not intended to constitute advice. If you require advice on any of the matters raised in this update, please let us know and we will be delighted to assist.