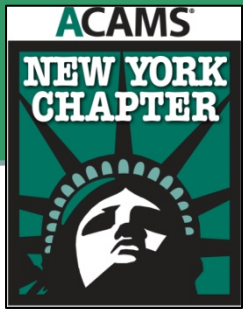


The Foreign Corrupt Practices Act: *Recent Enforcement, Red Flags in Travel & Entertainment and Mitigating the Risks of Third Parties*

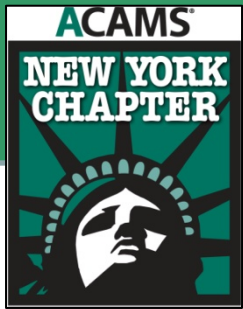
Scott Moritz
Managing Director
Navigant Consulting, Inc.
September 27, 2010



The Foreign Corrupt Practices Act:

I. The Parallels Between Money Laundering & Corruption

- A. Politically Exposed Persons = Foreign Officials
- B. Illicit payments often involve layering, offshore banking, shell companies with opaque ownership
- C. High Risk Geographies are equally relevant in FCPA cases
- D. Both PATRIOT Act and FCPA include "extraterritoriality"
- E. Know Your Customer principles equally important with customers, third parties
- F. FCPA violations are Specified Unlawful Activity

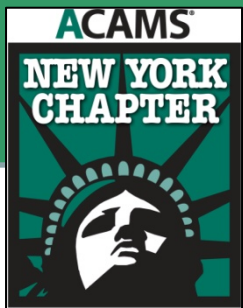


The Foreign Corrupt Practices Act: II. FCPA and Financial Services

Historically, FCPA enforcement has affected other industries more frequently than financial services companies. However, there is a growing trend toward corruption enforcement against financial services companies.

Where are the FCPA risks for financial services companies?

- A. Politically Exposed Persons
- B. Foreign Governments – State-Owned Enterprises
- C. High Corruption Risk Countries
- D. Entertaining and/or hosting Government Officials
- E. Gifts to government officials
- F. Preferential terms for government officials
- G. Placement agents, “finders”, joint ventures or other intermediaries
- H. Accounts used to pay bribes, deposits of bribe proceeds
- I. Embassies, charitable foundations, political organizations



The Foreign Corrupt Practices Act: III. Cases Against Financial Services Companies

A. The Mercator Corporation

The Mercator Corporation is a merchant bank with offices in New York that was acting as an advisor to the government of Kazakhstan in connection with sale of portions of the countries oil and gas wealth.

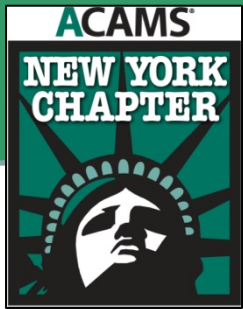
The award of the contract and the payment of success fees were at the discretion of three senior government officials.

MERCATOR PURCHASE AND SHIPPED TWO SNOWMOBILES FOR DELIVERY TO ONE OF THE KAZAKH OFFICIALS.

The company and its Chairman, James Giffen, pleaded guilty to making an unlawful payment in violation of the FCPA. Giffen to failing to disclose the existence of a Swiss account.



Red Flags - Kazakhstan, Oil & Gas, BVI company, Swiss Bank Account, Government officials, Government Client



The Foreign Corrupt Practices Act: III. Cases Against Financial Services Companies

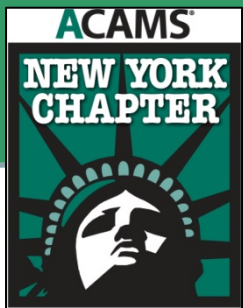
B. Aon Ltd.

Aon Ltd is the UK subsidiary of Aon Corporation, a global financial services company. According to the Financial Services Authority, Aon Ltd did not take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption associated with making payments to third parties in winning business from overseas clients.

“As a result ... a number of payments were made ...to ...Third Parties in Bahrain, Bangladesh, Bulgaria, Burma, Indonesia and Vietnam.”



Red Flags - Placement agents, “finders,” high risk geographies, no due diligence, monitoring of third parties or anti corruption training.



The Foreign Corrupt Practices Act: III. Cases Against Financial Services Companies

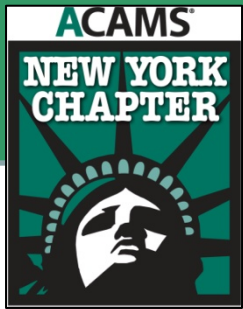
C. Stanford Financial Group

DOJ / SEC cases against alleged Stanford paid \$100,000 in bribes to the former head of Antigua's banking watchdog, the Financial Services Regulatory Commission who in return allegedly falsified audits of the bank, misled the SEC and leaked information to Stanford about the investigation.

"Stanford also gave King (i) use of private jets (ii) use of a corporate car; and (iii) 2004 Super Bowl tickets for King and a companion. Stanford subsequently hired King's Super Bowl companion as a human resources project manager in Houston."



Red Flags - Government officials, gifts, use of travel, lavish sporting event tickets, offers of employment.



The Foreign Corrupt Practices Act: IV. Other Cases of Note

D. Siemens AG

Siemens AG is a global electrical engineering and electronics company employing over 400,000 people in 190 countries.

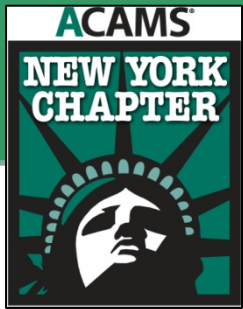
Siemens AG paid over \$1.6 billion to the US and Germany for its payment of bribes to secure government contracts.

“THE PRINCIPAL PAYMENT MECHANISMS USED TO FACILITATE ILLICIT WERE BUSINESS CONSULTANTS, PAYMENT INTERMEDIARIES, SLUSH FUNDS, CASH, AND INTERCOMPANY ACCOUNTS.”

There were 4,283 separate payments totaling \$1.4 billion spanning the telecommunications, transportation systems, power generation, power transmission, medical solutions and industrial solutions divisions.



Red Flags - Auditors flagged cash payments in Nigeria; Failure to respond to news reports of bribes paid in Italy using Liechtenstein slush fund via a Dubai “consultant”; Auditors flagged €37 million of bonus payments to government officials in Greece.



The Foreign Corrupt Practices Act: IV. Other Cases of Note

E. Control Components, Inc. (CCI)

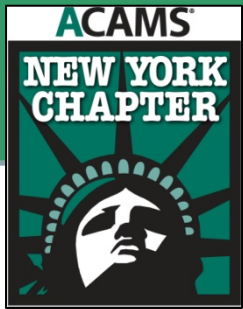
CCI manufactures service control valves for use in the nuclear, oil and gas, and power generation industries. Paid a criminal fine of \$18.2 million.

Pleaded guilty to violations of the Foreign Corrupt Practices Act (FCPA) and the Travel Act in a decade-long scheme to secure contracts in approximately 36 countries by paying bribes to officials and employees of various foreign state-owned companies as well as foreign and domestic private companies.

USE OF TRAVEL ACT CHARGING BRIBERY OF PRIVATE INDIVIDUALS.



Red Flags - Direct payments; inflated payments to consultants in amount of bribe payments; bribes paid through intermediaries that were shells; developing "Friends in Camp" and the payment of "flowers" was part of their overall sales strategy.



The Foreign Corrupt Practices Act: IV. Other Cases of Note

F. Nature's Sunshine Products

NSP is a manufacturer of nutritional and personal care products which markets its products worldwide through a system of independent multi-level marketing distributors.

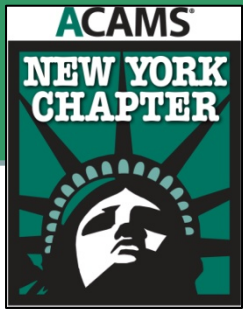
Payment of bribes through customs brokers to customs officials to import unregistered products into Brazil. Payments were mischaracterized as "importation advances" in NSP's books and records.

SEC case is noteworthy because of the charging of Control Person Liability

USE OF TRAVEL ACT CHARGING BRIBERY OF PRIVATE INDIVIDUALS.



Red Flags - Change in Brazilian import law inhibited the flow of products into Brazil. Customs brokers were used to continued to bring unregistered product to market despite prohibitions against importing certain products. Inflated payments to customs brokers for the payment of bribes to customs officials, eventually amounting to 25% of the value of the imported goods.



The Foreign Corrupt Practices Act: V. Other Corruption Investigations

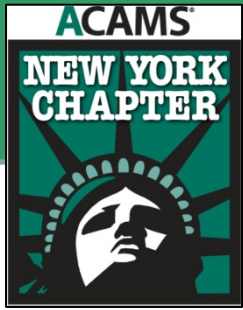
My experience as an investigator is that many financial crimes are only one or two degrees of separation from the seat of power. While many of these cases were not charged as violations of the FCPA, they certainly could have been.

A. Private Banking Bank Fraud - \$45 million fraud. Bank record analysis revealed \$1 million payment to a low level aide to the then president of a Latin American country.

B. Embezzlement in Turkey – Construction and equipment leasing fraud totalling \$50 million with payments to and intermediaries controlled by former and sitting members of the Turkish Parliament.

C. Loan Fraud in California – Bank Fraud subject was laundering money stolen by the Philippine President. Investigation revealed the subject company created a no-show job for an associate of the Philippine president who was a fugitive at the time of the investigation.

D. The reason Politically Exposed Persons became a focal point of AML compliance stemmed from major international political scandals involved corruption and the theft of monies by dictators including Duvalier, Salinas, Noriega, Marcos, Suharto et al.



The Foreign Corrupt Practices Act: VI. Contact Information

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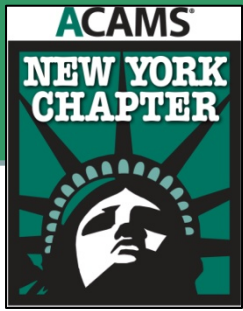
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The Foreign Corrupt Practices Act:

Questions