Akin®

Corporate Bribery: Successful Prosecutions in the United Kingdom

Dec 16, 2015

Reading Time : **4 min**

By: Justin Williams, Davina Garrod, Wynn H. Segall, Nnedinma C. Ifudu Nweke

The DPA

On November 30, 2015, the SFO announced that it had agreed to a DPA with ICBC Standard Bank plc in relation to US $6 million in bribes paid by its Tanzanian subsidiaries in 2012 and 2013 to companies owned by Tanzanian public officials, in order to obtain work from the Government of Tanzania that ultimately generated US $8.4 million in transaction fees for the bank.

Having self-reported to the SFO in April 2013, the bank faced charges under Section 7 of the UKBA for failing to prevent the corrupt activity of its staff and subsidiaries in Tanzania. Section 7 establishes a strict liability offense under which an entity will be held liable for the illegal conduct of its employees or representatives without the need for prosecutors to establish that the entity was aware of the bribe. The DPA, as approved by a senior judge, requires the bank to disgorge its US$ 8.4 million profit, compensate the Tanzanian government to the tune of US $6 million and pay a fine of US $16.8 million (and the SFO's costs). The bank has already paid a US $4.2 million fine to the U.S. authorities, as the SFO has been working closely with both the U.S. Department of Justice (DOJ) and U.S. Securities and Exchange Commission (SEC) in pursuing this case.

The agreement of a DPA gives corporations somewhat clearer guidance as to how the self-reporting regime in the United Kingdom works in practice, which may encourage early engagement with the SFO when corrupt activity is discovered in an organization. However, it remains to be seen to what extent the size of the fine, the substantial ongoing burden of supervision of the bank by the SFO and the blanket cooperation to which the bank had to

agree in order to secure the DPA may counterbalance those benefits and discourage other corporations from going forward with voluntary disclosure of such concerns in the future. Certainly, there is now little doubt that the bar has been set high in terms of the level of cooperation that a self-reporting entity will be expected to provide, given that Standard Bank self-reported early, allowed the SFO broad access to its internal documents and has also agreed to continue fully cooperating with ongoing monitoring activities by the regulator.

The UKBA Guilty Plea

On December 2, 2015, the SFO announced that the U.K.-listed Sweett Group, a construction industry project management company with operations across Europe, North America and the MENA region, had admitted offenses under Section 7 of the UKBA, following an investigation that was opened in July 2014 in relation to Sweett Group's activities in the Middle East. The case marks the first guilty admission by a corporation in a Section 7 prosecution.

The SFO investigation followed reports in the U.S. financial press that a former Sweett employee had attempted to induce a New York-based architecture firm to bribe a U.A.E. public official in order to obtain work for both the architect and Sweett on a US $100 million health care project in North Africa. In the course of conducting an internal investigation following the press reports, Sweett uncovered other potential offences, which it self-reported to the SFO. It is also understood that Sweett entered discussions with the DOJ in 2014, but, to date, there appears to have been no substantive enforcement action taken in the United States.

The penalties to be imposed will be determined at a future court hearing, which has yet to be scheduled, but Sweett has conceded that it faces a potentially unlimited fine. Its shares fell 10 percent following the announcement, and are now worth less than a third of the price at which they traded before the bribery allegations first came to light.

Potential Impact of the SFO's Success

After the UKBA came into force in 2011, the SFO was widely criticized for taking little post-implementation enforcement action under the UKBA, but these enforcement actions may revive debate on whether the UKBA's provisions for prosecution of a "failure to prevent" offense should be extended to other financial crimes. This is a position that has been long-espoused by the SFO (and advocated for by David Green QC, the SFO's director), but it appears to have been deprioritized by the current government after some initial displays of

enthusiasm. With the wind in its sails, the SFO may reactivate its attempts to broaden its enforcement authority. Press reports indicate that Mr. Green, whose four-year term was due to expire in April 2016, is to be offered a two-year contract extension.

More broadly, the SFO's action in these cases sends a signal to the international business community that the UKBA does indeed have real teeth and cannot be ignored. In practical terms, these actions furnish concrete evidence that global companies that carry on business in the United Kingdom must be mindful of the UKBA in their conduct of business anywhere in the world. As a benchmark of business best practices, these enforcement actions are a sharp reminder that the UKBA sets forth standards that establish essential points of reference for the anticorruption compliance policies and practices of global companies.

Contact Information

If you have any questions concerning this alert, please contact:

Justin Williams
williamsj@akingump.com
+44 20.7012.9660
London

Tom Evans
tevans@akingump.com
+44 20.7012.9669
London

Mark Dawkins
mark.dawkins@akingump.com
+44 20.7661.5330
London

Wynn H. Segall
wsegall@akingump.com
+1 202.887.4573
Washington, D.C.

Davina Garrod
davina.garrod@akingump.com
+44 20.7661.5480
London

Nnedinma C. Ifudu Nweke
nifudu@akingump.com
+1 202.887.4013
Washington, D.C.

Richard Hornshaw
richard.hornshaw@akingump.com
+44 20.7661.5489
London

Nicole H. Sprinzen
nsprinzen@akingump.com
+1 202.887.4301
Washington, D.C.

Categories

Anticorruption/Antibribery

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.