

## Four Israelis Arrested in United States for Bribery and Money-Laundering

On 19 January, 2010, the FBI arrested four Israelis for allegedly violating the U.S. Foreign Corrupt Practices Act (FCPA) by agreeing to pay a commission to a sales agent whom the Israelis believed was an agent for the defense minister of an African country. In fact, the sales agent was an undercover FBI agent. Instead of receiving a multi-million dollar contract for military and police equipment and other supplies, the four Israelis who traveled to Las Vegas for the “Shot Show,” the firearms industry’s largest convention, found themselves in U.S. jails.

The criminal Indictment charges the President and CEO of a Kfar Saba company that acts as a sales agent for companies in the military products and law enforcement industries with agreeing to pay a 20% commission for two contracts to sell explosive detection kits and other security-related products to the Ministry of Defense of an unnamed African country to outfit that country’s Presidential Guard, knowing that half of the “commission” was intended to be paid as a bribe to the Minister of Defense, and the other half to be split between the representative of the ministry of defense and a witness cooperating with the Government. The products that the other Israelis now in jail in the U.S. contracted to sell included a special purpose gun accessory that can be used to observe and shoot targets around a corner, riot control suits, and ballistic plates for body armor.

This case highlights the aggressive approach that U.S. law enforcement is taking against bribery. In total, so far, 23 persons have been charged criminally in the investigation, for offering “bribes.” Those charged include five British nationals and one Peruvian. The U.S. Justice Department (DOJ) described the case as “the largest single investigation and prosecution against individuals in the history of DOJ’s enforcement of” the FCPA. British authorities executed seven search warrants in London, and the FBI executed 14 search warrants in 12 U.S. cities. The charges against the Israelis and others include conspiracy to commit money laundering, which, unlike the FCPA charges with possible five year jail terms, could result in 20 year jail terms. The message across the globe is we truly are at a new stage of worldwide anti-bribery enforcement and assault on corruption.

This is not the first time that Israeli companies have been caught in U.S. investigations involving bribery. In December 2008, the U.S. Securities and Exchange Commission in its massive case against Siemens alleged that “between 2002 and 2005, Siemens PG paid approximately \$20 million in bribes to a former Director of the state-owned Israel Electric Company.” The SEC charged that Siemens routed its corrupt payments for four contracts worth \$786 million to build and service power plants in Israel through a business consultant owned and managed by the brother-in-law of the CEO of Siemens Israel Limited.

It is not just the broad charges and the potential jail terms that could result from the convictions that deserve attention. Equally important are the investigative tools and the implications of the cases. DOJ's Assistant Attorney General in charge of the Criminal Division said that "this ongoing investigation is the first large-scale use of undercover law enforcement techniques to uncover FCPA violations and the largest action ever undertaken by the Justice Department against individuals for FCPA violations." He added that "would-be FCPA violators should stop and ponder whether the person they are trying to bribe might really be a federal agent." The use of an undercover agent and a cooperator indicate proactive enforcement, not just waiting for the "corrupt" conduct to be revealed by companies making voluntary disclosure or competitors providing information about suspicious conduct.

U.S. law enforcement clearly is working with its counterparts around the world and acknowledges openly that there are 140 open FCPA investigations with 20 FBI agents working full-time on FCPA cases. This investigation, which is ongoing, likely will result in more charges against additional persons and, probably companies. Also, those who decide to plead guilty may offer their knowledge of other "corrupt" conduct to reduce their jail sentences. Although previous FCPA cases have focused heavily on the oil and gas, mining, pharmaceutical and manufacturing industries, we now see firearms, military and police equipment joining medical devices and healthcare innovations as industries under scrutiny.

Finally, law enforcement has long placed a premium on charging gatekeepers, including lawyers and accountants, for their roles facilitating offenses or disregard of their responsibilities to enable these crimes to occur. In fact, one of the defendants charged in the sweep was the General Counsel of a company that makes and exports from the U.S. bulletproof vests and other equipment. The U.S. Government has sent a powerful message to persons and companies doing business in the U.S. and with U.S. persons to get in order quickly anti-bribery compliance programs and prepare for continued aggressive enforcement.

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