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## **Criminal Enforcement of the Foreign Corrupt Practices Act Continues at Increased Pace**

The ex-CEO of KBR, a former Halliburton subsidiary, recently pleaded guilty to participating in a conspiracy to pay Nigerian officials \$182 million in bribes in return for business. This prosecution is among the highest profile FCPA cases ever brought by the Department of Justice Fraud Section. This case and the others below—each with significant developments in the past two weeks—demonstrate that heightened criminal enforcement of the FCPA is not merely a passing trend.

The increased volume of FCPA prosecutions is in part a function of the government resources added in recent years and dedicated exclusively to investigation and prosecution of business corruption cases. Where there were once only a couple of attorneys assigned to prosecute FCPA matters, the Fraud Section staff overseeing FCPA matters today has increased several times over. Additionally, during the past couple of years the FBI has, for the first time, assigned agents to the Fraud Section with dedicated responsibility for investigating foreign corruption cases.

### **United States v. Albert Jackson Stanley, Crim. No. H-08-597 (S.D. Tex.)**

Albert “Jack” Stanley was the chief executive of KBR until Halliburton severed ties with him when allegations of misconduct surfaced. Stanley pleaded guilty to using two “consulting” arrangements to funnel bribes to Nigerian officials in exchange for contracts to build a \$6 billion liquefied natural gas complex. The payments were made from 1995 through 2004.

The DOJ alleged that Stanley authorized the payment of \$132 million to a UK consulting company and \$50 million to a Japanese consulting company, intending that part of these amounts would be used by the consultants to pay bribes to Nigerian government officials. Although Stanley has not yet been sentenced, it is expected that he will be sentenced, pursuant to a plea agreement, to seven years in prison. It is also anticipated that Stanley will be ordered to pay \$10.8 million in restitution for kickback payments he received separate from the conspiracy to bribe foreign officials. Stanley has also promised to cooperate with the DOJ in other investigations.

**United States v. Nguyen, et al., No. 08-CR-522 (E.D. Pa.)**

Four individuals were arrested on September 5, 2008 on charges of conspiring to violate the FCPA in connection with bribe payments to Vietnamese officials. According to the indictment, from approximately 1999 through 2008, the four U.S. citizens and the company that employed them engaged in a scheme to pay kickbacks to Vietnamese officials in transportation, petroleum, and tourism industries. The company, Nexus Technologies, Inc., was in the business of procuring various items from United States vendors for buyers in Vietnam, including underwater mapping equipment, helicopter parts, chemical detectors, and satellite communication parts. The government alleges that the defendants paid bribes to various Vietnamese officials in exchange for business. The total volume of payments is alleged to be at least \$150,000. According to the indictment, some of the payments were made using a Hong Kong company as a conduit.

The indictment quotes in significant detail email communications among the alleged co-conspirators from 2001 through 2007 concerning "commission" payments to government officials. Although the Department has not publicly detailed the investigation of this case, the comprehensive allegations about email communications coupled with the government's notices filed in the case that it intends to use information obtained pursuant to the Foreign Intelligence Surveillance Act suggest that the investigation involved the use of covert surveillance of electronic communications. The DOJ stated that the FBI, Department of Commerce, and Office of Export Enforcement investigated the case.

**United States v. Roger Michael Young, No. 07-CR-609 (D.N.J.)**

A third former employee of ITXC was sentenced to probation for his part in a conspiracy to violate the FCPA and the Travel Act in connection with bribe payments (and offers to make bribe payments) to employees of state-owned telecommunications companies in Africa. The information filed in the case alleges that payments (and offers of payment) were made to officials in Nigeria, Rwanda, Senegal, Ghana, and Mali, but the plea agreement in the case indicates that the conspiracy might also have included officials in Angola, Uganda, Gambia, and Kenya. At least \$267,000 is alleged to have been paid to various officials in the course of the conspiracy.

Roger M. Young, a former managing director of ITXC, was sentenced on September 2, 2008 to serve five years probation, including three months of home confinement and three months in a community correctional facility. He was also ordered to pay a fine of \$7,000. Two others were previously sentenced for their parts in the conspiracy. Former vice president Steven Ott was sentenced in July 2008 to five years probation (including six months of home confinement and six months confinement in a community correctional facility) and a \$10,000 fine. In August 2007, Yaw Osei Amoako, the company's former regional manager for Africa, was sentenced to 18 months in prison (followed by 2 years of supervised release) and a \$7,500 fine.

Haynes and Boone, LLP has extensive experience in FCPA matters. If you would like advice on the matters mentioned in this Foreign Corrupt Practices Act Alert, or more information, please contact one of the Haynes and Boone attorneys listed below.

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