



2017 FCPA Mid-Year Report

BakerHostetler

Dear Clients and Friends:

The first half of 2017 has been eagerly anticipated following the record-setting year in 2016 for Foreign Corrupt Practices Act (“FCPA”) enforcement by both the U.S. Department of Justice (“DOJ”) and the U.S. Securities and Exchange Commission (“SEC”). Our mid-year update tracks major developments in FCPA enforcement trends, as well as enforcement actions, settlements, prosecutions and declinations. With over 900 lawyers and a seasoned core FCPA practice team that has handled cases on every continent, we understand the unique challenges facing companies operating in high-risk environments. Accordingly, we are pleased to offer this update to help educate your company on the latest FCPA developments. We look forward to answering any questions or concerns you have about these significant developments in FCPA enforcement, compliance and defense.

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Part 1: Introduction

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The FCPA

The FCPA proscribes certain businesses and individuals from bribing foreign public officials and is enforced criminally by the DOJ and civilly by the SEC. It also contains provisions addressing books and records and internal controls requirements (the “accounting provisions”).¹

The anti-bribery provisions prohibit direct or indirect bribe payments to foreign officials for the purpose of obtaining or retaining business.² Jurisdiction extends to (i) “issuers,” which are companies registered with the SEC and/or companies whose stocks are listed on a U.S. stock exchange; (ii) “domestic concerns,” which are U.S. citizens or corporations incorporated domestically or with their principal place of business in the U.S.; and (iii) foreign nationals or businesses that directly or indirectly engage in acts in furtherance of an improper payment while in the U.S. Fines and penalties under the FCPA can be significant. Individuals face up to five-years imprisonment and/or fines up to \$100,000 per violation; corporations face up to \$2 million per violation or twice the financial gain resulting from the improper payment.³ Beyond statutory penalties, FCPA violations have potentially drastic consequences on reputation and business operations.

The accounting provisions of the FCPA apply to issuers and their agents. The “books and records” provision requires issuers “make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.”⁴ Companies are also required to keep and maintain adequate internal controls.⁵ Critically, there is no materiality requirement. Unlike the anti-bribery provisions, the accounting provisions apply only to companies registered with the SEC, though both individuals and entities may be held liable.⁶ Violations of the accounting provisions may result in a fine of up to \$5 million and 20-year imprisonment for individuals and \$25 million for companies.⁷ Actions under the accounting provisions of the FCPA may be brought regardless of whether anti-bribery charges are alleged.

Overview: The FCPA Under the Trump Administration

The first half of 2017 has shown continued activity by both the DOJ and the SEC in investigating and prosecuting FCPA violations. However, there has also been considerable discussion as to the direction that the current administration will take in pursuing violations against foreign and domestic individuals and entities.

1 [Foreign Corrupt Practices Act of 1977](#), 15 U.S.C. §§ 78dd-1, et seq.

2 *Id.* §§ 78dd-1, 78dd-2, 78dd-3.

3 *Id.* § 78ff.

4 For example, individuals can be held liable for willfully violating internal controls or falsifying books and records. Securities Exchange Act (“Exchange Act”) § 13(b)(2)(A) (15 U.S.C. § 78m(b)(2)(A)).

5 *Id.* § 13(b)(2)(B) (15 U.S.C. § 78m(b)(2)(B)).

6 *See id.* § 13(b)(5) (15 U.S.C. § 78m(b)(5)), and Exchange Act Rule 13b2-1.

7 15 U.S.C. § 78ff.

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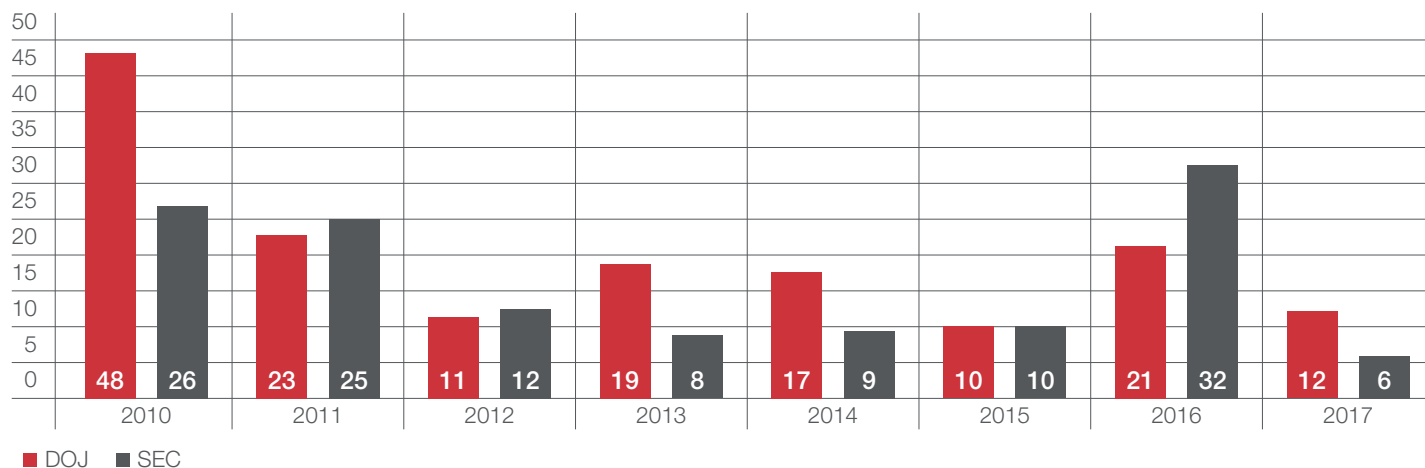
Part 1: Introduction

While previous statements by President Donald J. Trump and SEC Chair Jay Clayton were critical of the law, remarks by both the regulators and criminal authorities have focused on robust FCPA enforcement. In March 2017, Kenneth Blanco, the Acting Assistant Attorney General, noted that the “Criminal Division remains committed to doing its part by vigorously investigating and prosecuting international crime when it violates U.S. law.”⁸ At Jay Clayton’s confirmation hearing as SEC Chair, he stated that there is “zero room for bad actors in our capital markets.”⁹

[Foreign bribery] harms free competition, distorts prices, and often leads to substandard products and services coming into this country. It also increases the cost of doing business, and hurts honest companies that don’t pay these bribes. Our department wants to create an even playing field for law-abiding companies. We will continue to strongly enforce the FCPA and other anticorruption laws. Companies should succeed because they provide superior products and services, not because they have paid off the right people.

- Attorney General Jeff Sessions [Delivers Remarks at Ethics and Compliance Initiative Annual Conference \(April 24, 2017\)](#)

The majority of resolutions were announced prior to President Trump’s inauguration day, January 20, 2017;¹⁰ and the trend of SEC and DOJ actions to date is reflected below:



Conclusion

While the agenda for FCPA enforcement is yet to be seen, companies and individuals should expect to see a continued emphasis on FCPA enforcement and possible increase in investigations against individuals, as well as a focus on compliance enhancements.

⁸ Acting Assistant Attorney General Kenneth A. Blanco [Speaks at the American Bar Association National Institute on White Collar Crime](#) (Mar. 10, 2017).

⁹ [Opening Statement of Jay Clayton](#), Nominee for Chairman, SEC, Senate Committee on Banking, Housing and Urban Affairs, at 2 (Mar. 23, 2017).

¹⁰ See *infra*, Part 5: Select 2017 Enforcement Actions and Resolutions.



Part 2: Enforcement Actions and Resolutions – Corporations

Part 2: Enforcement Actions and Resolutions – Corporations

Cadbury Limited and Mondelēz International Inc.

On January 6, 2017, Cadbury Limited (“Cadbury”) and Mondelēz International Inc. (“Mondelēz”) jointly agreed to pay \$13 million to settle charges brought by the SEC for violating the internal controls and books-and-records provisions of the FCPA. The charges resulted from payments by Cadbury’s Indian subsidiary to a consultant to obtain government licenses and approvals for a chocolate factory in Baddi, India.¹¹

Mondelēz acquired Cadbury and its subsidiaries, including Cadbury India Limited, in February 2010. Following the acquisition, in 2010, Cadbury India hired an agent to broker communications between the company and government officials in an attempt to obtain licenses and approvals for one of its chocolate factories. As such, from February 2010 to July 2010, the agent received \$90,666 from Cadbury India as compensation for preparing license applications. However, these license applications were actually prepared by Cadbury India employees, and not the agent. After receiving payment the agent withdrew the funds from its bank account in cash.

As a result of the agent’s activities, “Cadbury India’s books and records, which were consolidated into the books and records of Cadbury and Mondelēz, did not accurately and fairly reflect the nature of the services rendered by the agent.”¹² Moreover, although the SEC did not allege that there was direct evidence of corruption, it determined that Cadbury India failed to implement adequate FCPA compliance controls when it failed to (i) conduct the appropriate due diligence on the agent, (ii) monitor the agent’s activities and (iii) require written documentation of the agent’s activities.

According to the SEC, it considered Mondelēz’s cooperation and remedial actions when deciding to settle with Cadbury and Mondelēz. The settlement was reached without either company admitting or denying the SEC’s findings.

DOJ and SEC Reach Separate Agreements: Las Vegas Sands Corp.

On January 19, 2017, the DOJ announced that it entered into a non-prosecution agreement with Nevada-based resort and casino company Las Vegas Sands (“Sands”) where it agreed to pay nearly \$7 million to resolve FCPA charges. The FCPA charges were related to offenses conducted in the People’s Republic of China (“China”) and Macau.¹³ Typically, the SEC and the DOJ reach simultaneous agreements; however, in this instance, for reasons unknown, the DOJ agreement was reached months after Sands settled for approximately \$9 million with the SEC in April 2016.¹⁴ The facts underlying the SEC and DOJ agreements were largely identical.

According to the DOJ, Sands admitted that from 2006 to 2009 it paid a business consultant approximately \$5.8 million “without any discernable legitimate business purpose.”¹⁵ The DOJ alleged that Sands transferred nearly \$60 million to the consultant for the purposes of acting as an intermediary to conceal the purchase of a Chinese basketball team and a building in Beijing.¹⁶ The

¹¹ [Cadbury Limited and Mondelez International, Inc.](#), Exchange Act Rel. No. 3-17759 (Jan. 6, 2017).

¹² [SEC Charges Cadbury Limited and Mondelēz International, Inc. with Violating the Internal Accounting Controls and Books and Records Provisions of the FCPA](#), SEC Rel. No. No. 3-17759 (Jan. 6, 2017).

¹³ [Las Vegas Sands Corporation Agrees to Pay Nearly \\$7 Million Penalty to Resolve FCPA Charges Related to China and Macao](#), DOJ Press Rel. No. 17-101 (Jan. 19, 2017).

¹⁴ [Las Vegas Sands Corp.](#), Exchange Act Rel. No. 3-17204 (April 7, 2016).

¹⁵ [Las Vegas Sands Corporation Agrees to Pay Nearly \\$7 Million Penalty to Resolve FCPA Charges Related to China and Macao](#), DOJ Press Rel. No. 17-101 (Jan. 19, 2017).

¹⁶ [Letter from Laurence Urgenson re: Las Vegas Sands Corp. Non-Prosecution Agreement](#) (Jan. 17, 2017).

Part 2: Enforcement Actions and Resolutions – Corporations

DOJ did not accuse Sands of corruption; rather, it asserted that the company failed to implement a system of internal accounting controls to ensure the legitimacy and proper accounting of payments to the consultant.

Sands fully cooperated with the DOJ during the investigation. As a result of its cooperation, it received a 25 percent reduction off the bottom of the applicable U.S. Sentencing Guidelines fine range. In addition to agreeing to pay a financial penalty, Sands also agreed to make significant improvements to legal, compliance and audit programs.

Orthofix International N.V.

On January 18, 2017, Texas-based medical device company Orthofix International settled a cease-and-desist proceeding regarding alleged FCPA accounting violations arising from improper payments to doctors at state-run hospitals in Brazil in order to increase sales.¹⁷ According to the SEC, from about 2011 to 2013, Orthofix engaged in a series of schemes using high discounts and improper payments through third-party commercial representatives and distributors to induce doctors under government employment to use Orthofix's products. These transactions were concealed by fake invoices. As a result, Orthofix lacked sufficient controls to prevent the misconduct, which resulted in Orthofix's failure to properly record the transactions in its books and records.

Orthofix self-reported the misconduct in Brazil as part of its self-reporting obligations undertaken as part of its previous settlements with the DOJ and SEC stemming from misconduct in Mexico that the company settled in 2012. In addition to admitting wrongdoing and paying more than \$6 million in disgorgement and penalties to settle the FCPA charges, Orthofix also agreed to retain an independent compliance consultant for one year to review and test its FCPA compliance program.¹⁸

The SEC also brought a simultaneous action charging Orthofix and four then-executives with improperly booking revenue and other accounting failures. Orthofix agreed to pay \$8.25 million to settle this separate non-FCPA-related action.

Repeat Offender: Zimmer Biomet Holdings

On January 12, 2017, the DOJ and the SEC took a hard stance against repeat FCPA offenders when they entered into a second joint resolution with Zimmer Biomet Holdings ("Zimmer Biomet") for more than \$30 million. Prior to Biomet's merger in 2015 with Zimmer Inc., which resulted in the creation of Zimmer Biomet, Biomet was subject to a 2012 deferred prosecution agreement ("DPA") in connection with a previous FCPA violation. According to the DOJ, the company "knowingly and willfully continued to use a third-party distributor in Brazil known to have paid bribes to government officials on Biomet's behalf."¹⁹ Moreover, "Biomet also failed to implement an adequate system of internal accounting controls at the company's subsidiary in Mexico, despite employees and executives having been made aware of red flags suggesting that bribes were being paid."²⁰ As such, Biomet's conduct permitted its Mexican subsidiary, Biomet 3i Mexico S.A. de C.V., to pay bribes to Mexican customs officials to smuggle mislabeled products across the border.²¹

¹⁷ [Orthofix International N.V.](#), Exchange Act Rel. No. 3-17800 (Jan. 18, 2017).

¹⁸ [Medical Device Company Charged With Accounting Failures and FCPA Violations](#), SEC Press Rel. No. 2017-18 (Jan. 18, 2017).

¹⁹ [Zimmer Biomet Holdings Inc. Agrees to Pay \\$17.4 Million to Resolve Foreign Corrupt Practices Act Charges](#), DOJ Press Rel. No. 17-045 (Jan. 12, 2017).

²⁰ *Id.*

²¹ [U.S. v. Zimmer Biomet Holdings, Inc.](#), Superseding Information, Crim. No. 12-CR-00080 (Jan. 12, 2017).

Part 2: Enforcement Actions and Resolutions – Corporations

As a result of the company's conduct, it had to pay the DOJ a \$17.4 million criminal penalty, and the SEC disgorgement of \$6.5 million including prejudgment interest and a \$6.5 million civil penalty in order to resolve the proceedings.²² The company also agreed to once again retain a monitor for another three years.

International Cooperation: Rolls-Royce plc

On January 17, 2017, Rolls-Royce plc ("Rolls-Royce") agreed to pay a combined \$800 million to U.S., U.K. and Brazilian authorities for a long-running scheme to bribe foreign officials. The DOJ announced that Rolls-Royce entered into a DPA²³ after a criminal information was filed on December 20, 2016 in the Southern District of Ohio. Rolls-Royce agreed to pay a \$195.5 million criminal penalty to the DOJ, a \$604.8 million fine to the U.K.'s Serious Fraud Office ("SFO") and a \$25.5 million fine to Brazil's Ministerio Publico Federal ("MPF"). The DOJ gave Rolls-Royce a credit for paying a fine to the MPF. The DPA provided for a \$30 million payment to the Consumer Financial Fraud Fund as part of the criminal penalty, the first time such a payment has been made in an FCPA action.

Rolls-Royce is a U.K.-based manufacturer of power systems for the aerospace, defense, marine and energy sectors. The company admitted that more than \$35 million in bribes was paid to foreign officials in numerous countries to secure government contracts. Rolls-Royce paid bribes directly and through intermediaries in Thailand, Brazil, Kazakhstan, Azerbaijan, Angola and Iraq.

The DPA stated that the government took into account the fact that Rolls-Royce did not report the conduct to the DOJ until after the media began reporting allegations of corruption and after the SFO had already initiated an inquiry into the allegations. However, Rolls-Royce also cooperated with the investigation, took remedial measures, enhanced its compliance procedures and implemented internal controls. The penalty was reduced by 25 percent because of these actions. The DOJ indicated that it was still investigating individuals involved.

Ability to Pay Analysis: Odebrecht S.A.

On April 11, 2017, the DOJ submitted a sentencing memorandum to the Eastern District of New York reducing the criminal penalty Odebrecht S.A. ("Odebrecht") had to pay. In December 2016, as discussed in the 2016 FCPA Year End Report,²⁴ Odebrecht agreed to pay a \$260 million criminal penalty. Based on representations from Odebrecht, the DOJ completed an analysis of Odebrecht's ability to pay and reduced the criminal penalty to \$93 million. Odebrecht pleaded guilty to FCPA violations for paying hundreds of millions of dollars in bribes to foreign officials through a complex financial structure within the company.

Continued Focus on Charitable Contributions: Sociedad Quimica y Minera de Chile S.A.

On January 13, 2017, Sociedad Quimica y Minera de Chile S.A. ("SQM"), a Chilean chemical and mining company, entered into a DPA with the DOJ and agreed to pay a \$15.5 million criminal penalty for violations of the FCPA.²⁵ SQM was charged with failing to implement internal controls and falsifying

²² [Biomet Charged With Repeating FCPA Violations](#), SEC Press Rel. No. 2017-8 (Jan. 12, 2017).

²³ [Rolls-Royce plc Agrees to Pay \\$170 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act Case](#), DOJ Press Rel. No. 17-074 (Jan. 17, 2017).

²⁴ See BakerHostetler, [2016 FCPA Year-End Report](#).

²⁵ [Chilean Chemicals and Mining Company Agrees to Pay More Than \\$15 Million to Resolve Foreign Corrupt Practices Act Charges](#), DOJ Press Release No. 17-065 (Jan. 13, 2017).

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books and records. Although SQM did not voluntarily disclose, SQM received a 25 percent reduction on the criminal penalty for cooperating with the DOJ and for taking remedial measures. SQM also settled civil charges with the SEC by agreeing to pay a \$15 million civil penalty and retaining a compliance monitor for two years.²⁶

SQM admitted to paying almost \$15 million in bribes to government officials between 2008 and 2015. The payments were mostly made to politicians, or people closely connected to politicians in Chile. One specific allegation was that SQM funneled \$630,000 to foundations controlled by Chilean officials with influence over the government's mining plans in Chile. To conceal the payments, SQM had the government officials submit false invoices for vendor work that was never performed.

FCPA Pilot Program Declinations

Linde North America Inc.

Pursuant to the DOJ's FCPA Pilot Program, the government closed its investigation into Linde North America Inc. and Linde Gas North America LLC ("Linde") on June 16, 2017.²⁷ Linde agreed to disgorge and forfeit \$11.2 million. Linde provides industrial gas for the oil and gas sector. The DOJ alleged that a New Jersey subsidiary of Linde paid bribes to foreign officials at a state-owned entity in the Republic of Georgia in connection with the purchase of certain assets from the state-owned entity. The bribes consisted of an agreement with high-level officials to share the profits earned by the sale of the assets in exchange for assistance in ensuring the subsidiary would be selected to purchase the assets. The payments were made to a management company controlled by the foreign officials.

The DOJ stated in its declination letter that the decision to close the investigation was based on, among other things, Linde's timely self-disclosure, Linde's agreement to disgorge the profits, "full remediation" and Linde's full cooperation.²⁸

CDM Smith Inc.

On June 21, 2017, the DOJ issued a declination letter closing its investigation into CDM Smith Inc. ("CDM Smith").²⁹ CDM Smith is a privately held engineering and construction firm headquartered in Boston. The DOJ alleged that from 2011 to 2015, a division of CDM Smith responsible for its operations in India bribed officials in the National Highway Authority of India. The bribes were made to secure highway construction contracts and a water project contract.

The DOJ closed its investigation based on CDM Smith's timely self-disclosure, the company's full cooperation, the remedial measures taken and CDM Smith's agreement to disgorge approximately \$4 million in profits.

²⁶ [Chemical and Mining Company in Chile Paying \\$30 Million to Resolve FCPA Cases](#), SEC Press Rel. No. 2017-13 (Jan. 13, 2017).

²⁷ [Letter from DOJ to Linde North America Inc. re: Declination letter](#) (June 16, 2017).

²⁸ *Id.*

²⁹ [Letter from DOJ to CDM Smith Inc. re: Declination letter](#) (June 21, 2017).



Part 3: Enforcement Actions and Resolutions – Individuals

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Actions and Resolutions –
Individuals**

No Honor Among Thieves: Joo Hyun Bahn, Ban Ki Sang, Sang Woo and Malcolm Harris

On January 10, 2017, the DOJ announced the unsealing of an indictment charging Joo Hyun Bahn, aka Dennis Bahn (“Bahn”), Ban Ki Sang (“Ban”) and Malcolm Harris (“Harris”) with violations of the FCPA, money laundering, wire fraud and aggravated identity theft, and the filing of a complaint charging Sang Woo, aka John Woo (“Woo”), with conspiracy to violate the FCPA.³⁰ The charges arose out of a corrupt scheme to pay \$2.5 million in bribes to a foreign official of a country in the Middle East in order to facilitate the sale by South Korean construction company Keangnam Enterprises Co. Ltd. (“Keangnam”) of a 72-story commercial building known as Landmark 72 in Hanoi, Vietnam, to the Middle Eastern country’s sovereign wealth fund for \$800 million.

According to the allegations in the indictment and complaint, from around March 2013 through May 2015, Bahn and his father, Ban, engaged in an international conspiracy to bribe a foreign official in connection with the attempted \$800 million sale of Landmark 72. At the time, Ban was a senior executive at Keangnam, the South Korean construction company that built and owned Landmark 72. Ban convinced Keangnam to hire his son, Bahn, who worked as a broker at a commercial real estate firm in Manhattan, to secure an investor for Landmark 72 in an effort to help Keangnam with its liquidity crisis. Bahn and Ban did not obtain financing through legitimate means, but instead engaged in a corrupt scheme to bribe a foreign official through Harris, who held himself out as an agent of the foreign official, to induce the foreign official to convince the Middle Eastern country’s wealth fund to acquire Landmark 72 for approximately \$800 million. Woo helped Bahn and Ban obtain the \$500,000 that was agreed to be the upfront bribe, with a subsequent \$2 million bribe to be sent upon the close of the sale. Harris, however, did not have a relationship with the foreign official and did not intend to pay that individual the bribe. Instead, he stole the \$500,000 and spent it on his own lavish personal expenses. Over the following year, Bahn continued to engage in the fraudulent scheme by tricking and lying to the creditors of Keangnam regarding the Landmark 72 deal.

Former U.S. Attorney Preet Bharara made the following statement:

The father-son defendants, Ban Ki Sang and Joo Hyun Bahn, allegedly conspired to bribe a foreign official to close an \$800 million deal for a 72-story skyscraper in Vietnam, a deal that would have led to a multimillion-dollar commission for the Manhattan real estate broker son and much-needed capital for the father’s construction company in Korea. But these alleged schemers were themselves double-crossed, as the man who purportedly set up the bribery scheme, Malcolm Harris, took the bribe money and pocketed it. This alleged bribery and fraud scheme offends all who believe in honest and transparent business, and it stands as a reminder that those who bring international corruption to New York City, as alleged here, will face the scrutiny of American law enforcement.³¹

Similarly, former Assistant Attorney General Leslie Caldwell stated that the “alleged conduct proves the adage that there is truly no honor among thieves. The indictment alleges that two defendants wanted to bribe a government official; instead they were defrauded by their co-defendant.”³²

30 [Four Individuals Charged In Foreign Bribery And Fraud Scheme Involving Potential \\$800 Million International Real Estate Deal For South Korean Company](#), DOJ Press Release No. 17-007 (Jan. 10, 2017).

31 *Id.*

32 *Id.*

Part 3: Enforcement Actions and Resolutions – Individuals

Bahn and Ban were each charged with one count of conspiracy to violate the FCPA, three counts of violating the FCPA, one count of conspiracy to commit money laundering and one count of money laundering. Bahn and Harris were also each charged with one count of wire fraud, one count of conducting monetary transactions in illegal funds and aggravated identify theft. Woo was charged with one count of conspiracy to violate the FCPA.

PDVSA Pleas: Juan Jose Hernandez Comerma and Charles Quintard Beech III

On January 10, 2017, Juan Jose Hernandez Comerma (“Hernandez”) and Charles Quintard Beech III (“Beech”) each pleaded guilty to foreign bribery charges for their roles in a scheme to corruptly secure contracts from Venezuela’s state-owned and state-controlled energy company, Petroleos de Venezuela S.A. (PDVSA).³³ In addition to Hernandez’s and Beech’s guilty pleas, the DOJ has announced the guilty pleas of six other individuals as part of a larger, ongoing investigation into bribery at PDVSA.³⁴

Hernandez, of Weston, Florida, pleaded guilty in federal court in Houston to one count of conspiracy to violate the FCPA and one count of violating the FCPA. Beech, of Katy, Texas, pleaded guilty to one count of conspiracy to violate the FCPA. Both guilty pleas were accepted, and sentencing is currently scheduled for February 8, 2018.

According to admissions made in connection with Hernandez’s guilty plea, Hernandez conspired with U.S.-based businessmen Abraham Jose Shiera Bastidas (“Shiera”) and Roberto Enrique Rincon Fernandez (“Rincon”) to pay bribes and other things of value to PDVSA purchasing analysts. These bribes ensured that Shiera’s and Rincon’s companies were placed in PDVSA bidding panels, which enabled the companies to win lucrative energy contracts with PDVSA. Hernandez admitted that from 2008 to 2012, while general manager and later partial owner of one of Shiera’s companies, he provided recreational travel and entertainment and offered bribes to PDVSA officials, including Alfonso Eliezer Gravina Munoz (“Gravina”). Rincon, Shiera and Gravina have also pleaded guilty.

According to admissions made in connection with Beech’s guilty plea, from 2011 to 2012, Beech paid bribes to multiple PDVSA officials, including Gravina, in exchange for their assistance in placing Beech’s companies on PDVSA bidding panels and assisting Beech’s companies in receiving payment for previously awarded PDVSA contracts. Beech also admitted that he agreed with others, including PDVSA officials, to engage in financial transactions to conceal the true nature and source of the bribe proceeds.

Och-Ziff Charges and Sentencing Continue: Michael Cohen, Vanja Baros and Samuel Mebame

On January 26, 2017, the SEC filed an unsettled FCPA case against Michael L. Cohen and Vanja Baros arising from the same alleged misconduct that gave rise to the case against Och-Ziff Capital Management Group (“Och-Ziff”) and two of its executives in 2016, which was one of the biggest FCPA stories of last year.³⁵ The SEC charged the two former executives with being the driving forces behind the far-reaching bribery scheme.³⁶

³³ [Two Businessmen Plead Guilty to Foreign Bribery Charges in Connection with Venezuela Bribery Schemes](#), DOJ Press Release No. 17-025 (Jan. 10, 2017).

³⁴ See BakerHostetler, [2016 FCPA Year-End Report](#) at 16–17.

³⁵ See BakerHostetler, [2016 FCPA Year-End Report](#) at 11, 17–18.

³⁶ [SEC Charges Two Former Och-Ziff Executives with FCPA Violations](#), SEC Litig. Release No. 23728 (Jan. 26, 2017).

Part 3: Enforcement Actions and Resolutions – Individuals

The SEC's complaint alleged that Cohen, who headed Och-Ziff's European office, and Baros, an investment executive on Africa-related deals, caused tens of millions of dollars in bribes to be paid to high-level government officials in Africa. The complaint also alleged that their misconduct induced the Libyan Investment Authority sovereign wealth fund to invest in Och-Ziff managed funds. Cohen and Baros also allegedly directed illicit efforts to secure mining deals to benefit Och-Ziff by directing bribes to influence government officials in Chad, Niger, Guinea and the Democratic Republic of Congo. The complaint was filed in the Eastern District of New York.

Also in connection with the Och-Ziff bribery scheme, Samuel Mebiame, the son of a former prime minister of Gabon, who pleaded guilty in December 2016 to conspiring to make corrupt payments to government officials in Africa,³⁷ was sentenced to 24 months in prison on May 31, 2017.³⁸ According to admissions made at his plea hearing, Mebiame was part of a conspiracy to provide improper benefits to government officials in multiple countries in Africa intended to influence the performance of official governmental duties. Mebiame, a dual citizen of Gabon and France, was living in Paris prior to his arrest.

Magyar Telekom Settlements: Elek Straub, Andras Balogh and Tamas Morvai

In December 2011, the SEC charged the largest telecommunications provider in Hungary and three of its former top executives with bribing government and political party officials in Macedonia and Montenegro to win business and shut out competition in the telecommunications industry.³⁹ The SEC alleged that the three senior executives – Elek Straub, Andras Balogh and Tamas Morvai – orchestrated, approved and executed a plan to bribe Macedonian officials in 2005 and 2006 to prevent the introduction of a new competitor and gain other regulatory benefits. Magyar Telekom's subsidiaries in Macedonia made illegal payments of approximately \$6 million under the pretense of fake consulting and marketing contracts. The same executives orchestrated a second scheme in 2005 in Montenegro related to Magyar Telekom's acquisition of the state-owned telecommunications company there. Magyar Telekom paid approximately \$8 million through four bogus contracts to funnel money to government officials in Montenegro. In 2014, the SEC dropped the allegations relating to Montenegro but kept the allegations relating to Macedonia.

Magyar Telekom settled in 2011 and paid more than \$31.2 million in disgorgement and prejudgment interest, and an additional \$59.6 million criminal penalty as part of a DPA. For the last five-plus years, the unsettled enforcement action against the executives seemed like it was heading toward the very first FCPA trial involving the SEC. However, each of the three defendants reached an out-of-court settlement, ending the contentious litigation in the Southern District of New York. Morvai settled first in February, agreeing to pay a \$60,000 penalty, without admitting or denying whether he authorized the bribe payments at issue.⁴⁰ Former CEO Straub and former chief strategy officer Balogh also dodged trial, and agreed to pay a \$250,000 penalty and a \$150,000 penalty, respectively, while neither admitting nor denying the charges.⁴¹ Straub and Balogh's settlement includes a five-year ban from serving as an officer or director of any SEC-registered public company.

37 See BakerHostetler, [2016 FCPA Year-End Report](#) at 17–18.

38 [Gabonese-French Dual Citizen Sentenced To 24 Months Imprisonment For Bribing African Officials](#), DOJ Press Release (May 31, 2017).

39 [SEC Charges Magyar Telekom and Former Executives with Bribing Officials in Macedonia and Montenegro](#), SEC Press Release No. 2011-279 (Dec. 29, 2011).

40 Cara Mannion, [Ex-Hungarian Telecom Exec Settles FCPA Suit Ahead of Trial](#), Law 360 (Feb. 9, 2017).

41 Cara Mannion, [Ex-Hungarian Telecom Execs Settle FCPA Bribery Claims](#), Law 360 (Apr. 24, 2017).



Part 4: The FCPA In Latin America

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Recently, the U.S. Department of Justice (“DOJ”) and the U.S. Securities and Exchange Commission (“SEC”) have targeted Latin American business activity under the FCPA. Latin America is a nexus for American business opportunities, making it more likely that actors involved in corrupt business practices in that region are subject to the FCPA. Latin American countries suffer from several major risk factors for FCPA enforcement, including institutionalized governmental corruption, government-controlled industries and opaque business regulations. In the past, the DOJ’s and SEC’s efforts in this region were largely stymied by local governments that refused to legislate against, or investigate, corrupt business practices in their jurisdictions. But in the last year, several Latin American countries have passed legislation and conducted investigations designed to root out business corruption within their borders. This proliferation of anti-corruption activity has emboldened the DOJ and SEC to allocate more resources in the region and work with Latin American regulators to curtail corrupt business practices. Indeed, last year, Kara Brockmeyer, the former chief of the SEC’s FCPA Unit, acknowledged that there were “several cases in the pipeline” in Latin America,⁴² many of which came to the fore this year.

Latin American Anti-Corruption Legislation

History tells us that when a Latin American country enacts sweeping anti-corruption legislation, FCPA enforcement activity in that country increases. For example, in 2014, Brazil passed the Clean Company Act of 2014, which holds companies responsible for the corrupt acts of their employees and introduced strict liability for those offenses.⁴³ Since then, Brazilian authorities have worked closely with the DOJ and SEC to investigate and prosecute Brazilian corrupt business practices, leading to a steep rise in FCPA-related enforcement activity in that country. By May 2017, no country in the world was connected to more ongoing FCPA investigations than Brazil, which was linked to 30 open and active FCPA investigations.⁴⁴

In 2017, several Latin American countries took steps toward joining Brazil against the fight to end corrupt business activities in Latin America, making it likely that the DOJ and SEC will put these countries in their FCPA crosshairs in the near future.

Mexico

On July 19, 2017, Mexico’s General Law of Administrative Accountability went into effect.⁴⁵ This law targets, among other things, any private party that conducts business activity in Mexico and is found to have: (i) bribed public officials, including by grease payments, which the FCPA exempts; (ii) tried to influence a public official, either economically or politically, to obtain a benefit or cause damage to a person or a public official; and/or (iii) taken any joint action with other private parties to obtain a benefit or advantage in a federal, state or municipal procurement process. In addition to its scope, the law establishes criminal liability for legal entities (a new legal phenomenon in Mexico). And it forces companies to implement adequate anti-corruption and compliance policies, such as: (i) organizational guidelines that clearly establish the chain of command; (ii) a code of conduct; (iii) recruiting policies addressed to detect potential liabilities when conducting business with the government; and (iv) monitoring procedures and accountability for the company’s personnel.

42 Morgan Miller, Bryan Parr and Francesca Erts, [How Latin America is Stepping Up Anti-Corruption Efforts](#), Law 360 (December 9, 2016).

43 Lei No. 12.846 (Brazil), Aug. 1, 2013.

44 [Thirty Companies Name Brazil in Connection with FCPA-Related Probes](#), The FCPA Blog (May 19, 2017).

45 Ley General de Responsabilidades Administrativas [LGRA] [Gen. L. of Admin. Liabilities] (Mex.), July 18, 2016.

Part 4: The FCPA In Latin America

Companies can also avoid or reduce liability if they act as whistleblowers or cooperate during investigations. Conversely, sanctions may increase if the company was aware of corruption but failed to report it to the relevant authorities.

Peru

On July 1, 2017, Peru's Law Regulating Administrative Liability of Legal Entities for the Commission of Active Transnational Bribery went into effect.⁴⁶ Similar to Mexico's anti-corruption reform, this law promises to hold companies liable for bribing government officials. But unlike the Mexican law, Peru's law targets only companies that bribe foreign government officials or officials belonging to an "international organization." While this law does not have a cross-border application, it applies either when the foreign government officials are located within Peru or when the bribe is intended to obtain or keep business in Peru. Penalties under the law include temporary or permanent suspensions or bans, cancellation of licenses, and the dissolution of the legal entity in question.

Argentina

This year, the Argentinian government considered a bill that penalizes legal entities that have engaged in corrupt business practices. Among other things, this bill would accelerate the existing investigations of corruption offenses and increase the punishments for such activities. Like Peru's anti-corruption law, Argentina's proposed law would target only bribes to foreign government officials or officials who belong to international organizations. The Argentinian government could pass the bill in the coming months.

Latin American FCPA Enforcement Activity

The frequency of FCPA-related investigations and enforcement actions in Latin America continues to rise. In 2016, Latin American countries scored an average of 37 out of 100 on the Corruption Perceptions Index. Our closest Latin American neighbor, Mexico, scored among the lowest in the region with a 30, and was ranked among the lowest worldwide. The DOJ and SEC and their international counterparts continued their focus on Latin American corruption in the first half of 2017.

Mexico

Since 2012, U.S. authorities have been investigating Wal-Mart Stores Inc. for allegedly bribing Mexican government officials to facilitate the opening of Mexican store locations. In October 2016, U.S. authorities offered Wal-Mart a \$600 million settlement, which Wal-Mart declined.⁴⁷ In May 2017, U.S. authorities offered Wal-Mart a \$300 million settlement. Wal-Mart has not officially declined or accepted the offer.⁴⁸

Peru

On July 13, 2017, former president of Peru Ollanta Humala and his wife, Nadine Heredia, surrendered in court in Lima in connection with an investigation of money laundering and conspiracy. Humala surrendered after a judge ordered Humala and his wife detained for up to 18 months while the investigation continues. Peruvian prosecutors accused the couple of taking \$3 million in illegal campaign funds from Brazilian construction conglomerate Odebrecht

⁴⁶ Ley Que Regula La Responsabilidad Administrativa De Las Personas Juridicas Por El Delito De Cohecho Activo Transnacional, Ley No. 30424 (Peru), Mar. 17, 2016.

⁴⁷ Tom Schoenberg and Matt Robinson, [Wal-Mart Balks at Paying \\$600-Million-Plus in Bribery Case](#), Bloomberg (Oct. 6, 2016).

⁴⁸ Aruna Viswanatha and Sarah Nassauer, [U.S. Asks Wal-Mart to Pay \\$300 Million to Settle Bribery Probe](#), Wall Street Journal (May 9, 2017).

Part 4: The FCPA In Latin America

S.A. during Peru's 2011 presidential election, and an undisclosed amount from deceased Venezuelan president Hugo Chávez in 2006.⁴⁹ In December 2016, Odebrecht, along with Brazilian petrochemical company Braskem S.A., pleaded guilty to conspiracy to violate the anti-bribery provisions of the FCPA and agreed to a criminal penalty of at least \$3.5 billion, the largest foreign bribery resolution in history.⁵⁰

Brazil

On July 12, 2017, former president of Brazil Luiz Inácio Lula da Silva ("Lula") was convicted of corruption and money laundering and sentenced to nearly 10 years in prison. The Brazilian court's written decision described a scheme in which Brazil's state-owned, national oil company Petroleo Brasileiro S.A. ("Petrobras") awarded contracts to construction firms that funneled money to Lula's allies. Lula's conviction is a result of a Brazilian federal investigation of Petrobras known as "Operation Car Wash," and the corruption scandal is the largest in Brazil's history.⁵¹ The DOJ and SEC have been working with their Brazilian counterparts in connection with the investigation to suss out any FCPA liability.

Chile

On January 13, 2017, the SEC announced that Sociedad Quimica y Minera de Chile S.A. ("SQM"), a chemical and mining company based in Chile, agreed to pay more than \$30 million to settle civil and criminal FCPA cases. The SEC alleged that SQM made approximately \$15 million in improper payments to Chilean political figures over a seven-year period. SQM admitted to knowingly failing to implement sufficient internal controls to ensure that payments made by its officers would comply with Chilean law, and also to falsifying its books and records to cover up payments made to cronies of politicians. Approximately half of SQM's settlement payment is meant to settle the SEC's charges, while the other half is in connection with a deferred prosecution agreement with the DOJ.⁵²

49 Simeon Tegel, [Latin America's Mega-Corruption Scandal Just Claimed Its Two Biggest Names](#), Washington Post (July 15, 2017).

50 Odebrecht and Braskem Plead Guilty and Agree to Pay at Least \$3.5 Billion in Global Penalties to Resolve Largest Foreign Bribery Case in History, DOJ Press Release No. 16-1515 (Dec. 21, 2016).

51 Alex Cuadros, [The Most Important Criminal Conviction in Brazil's History](#), New Yorker (July 13, 2017).

52 Chemical and Mining Company in Chile Paying \$30 Million to Resolve FCPA Cases, SEC Press Release No. 2017-13 (Jan. 13, 2017); Chilean Chemicals and Mining Company Agrees to Pay More Than \$15 Million to Resolve Foreign Corrupt Practices Act Charges, DOJ Press Release No. 17-065 (Jan. 13, 2017).



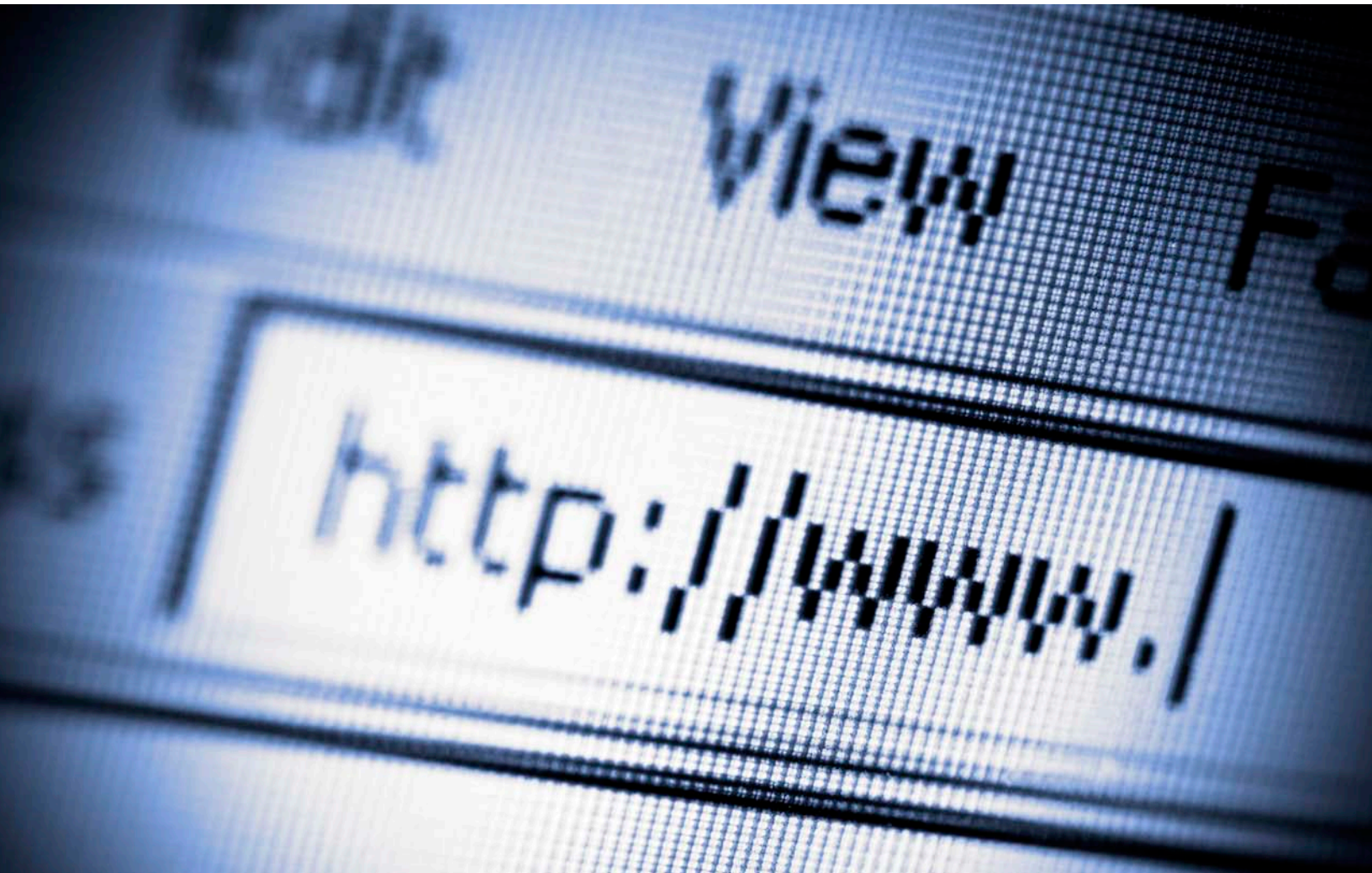
Part 5: Select 2017 Enforcement Actions and Resolutions

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Zimmer Biomet Holdings Inc.	In breach of a 2012 DPA by continuing to use a third-party distributor known to have paid bribes to government officials on behalf of Biomet	DOJ : \$17.4 million criminal penalty and independent compliance monitor SEC : \$5.82 million in disgorgement plus \$702,705 in interest and \$6.5 million civil penalty	Books and records	North America/ South America	Medical	1/12/2017
Cadbury Limited (fka Kraft Foods Inc.)/Mondelez International	Payment to agent for licenses and approvals for a proposed plant; failure to conduct due diligence and to monitor agent	SEC : \$13 million civil penalty	Books and records and Internal Controls	India	Food	1/6/2017
Charles Quintard Beech III	Scheme to corruptly secure contracts from Venezuela's state-owned and state-controlled energy company, Petroleos de Venezuela S.A. (PDVSA).	DOJ: Guilty plea	Conspiracy to violate Anti-Bribery provisions of FCPA and violating Anti-Bribery provisions of FCPA	Venezuela	Energy	1/10/2017
Juan Jose Hernandez Comerma			Conspiracy to violate Anti-Bribery provisions of FCPA			
Elek Straub	Orchestrated, approved and executed a plan to bribe Macedonian officials in 2005 and 2006 to prevent the introduction of a new competitor and gain other regulatory benefits	SEC: \$250,000 civil penalty; 5-year industry bar from serving as officer or director	Violation or aiding and abetting a violation of anti-bribery, books and records, and internal controls provisions	Macedonia	Telecommunications	4/24/2017
Andras Balogh		SEC: \$150,000 civil penalty; 5-year industry bar from serving as officer or director				
Tamas Morvai		SEC: \$60,000 civil penalty				
Las Vegas Sands Corp.	Charged with paying a business consultant approximately \$5.8 million for the purpose of acting as an intermediary to conceal bribes	DOJ : \$7 million civil penalty	Books and records and Internal Controls	China	Casino	1/19/2017

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Michael Cohen Vanja Baros	Former executives at Och-Ziff Capital Management Group charged with being the driving forces behind the far-reaching bribery scheme to influence government officials in several countries in Africa	SEC : Charged in complaint	Violation of Anti-Bribery provisions of FCPA, aiding and abetting Och-Ziff's violation of Anti-Bribery provisions of FCPA, aiding and abetting Och-Ziff's books and records violations, books and records, violations of the Advisers Act	Africa	Financial	1/26/2017
Orthofix International	Improperly booked revenue in certain instances and made improper payments to doctors at government-owned hospitals in Brazil in order to increase sales	SEC : \$8.25 million civil penalty to resolve accounting violations and more than \$6 million in disgorgement and penalties for FCPA charge; agreed to retain an independent compliance consultant for one year	Accounting violations, Books and records, and Internal Controls	Brazil	Medical	1/18/2017
Jeff Hammel	Then-executives at Orthofix involved in the accounting failures, which involved Orthofix improperly recording certain revenue as soon as a product was shipped despite contingencies, or immediately recording revenue when Orthofix provided customers with significant extensions to make payment	SEC : \$20,000 civil penalty; suspended from appearing as accountant before SEC with right to reapply after 2 years	Causing Orthofix's violations of the books and records and internal controls provisions and violating books and records rules			
Bryan McMillan		SEC : \$25,000 civil penalty	Violating internal controls provision and books and records rule, and causing Orthofix's violations of reporting and books and records provisions; Mack also violated books and records rule with inaccurate representation			
Kenneth Mack		SEC : \$40,000 civil penalty	Violating books and records provisions and causing Orthofix's books and records violations			
Brian McCollum		SEC : \$35,000 civil penalty and agreed to reimburse company \$40,885 for bonuses	None			
Robert Vaters	Not charged with wrongdoing	SEC : Reimbursed company \$72,886 for cash bonuses and stock awards	None			
Sociedad Quimica y Minera de Chile S.A. (SQM)	Made donations to foundations controlled by Chilean officials and vendors to bribe officials; use of fake documentation to hide bribes	DOJ : DPA and \$15.5 million penalty SEC : \$15 million civil penalty	Books and records and Internal Controls	South America	Chemical and Mining	1/13/2017

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Rolls Royce PLC	Long-running scheme to bribe government officials through third parties in exchange for government contracts	DOJ : DPA; \$195.5 criminal penalty to the DOJ; \$604.8 fine to the U.K.'s Serious Fraud Office; \$25.5 fine to Brazil's Ministerio Publico Federal	Violation of Anti-Bribery provisions of FCPA	U.S., U.K. and Brazil	Automobile	1/17/2017
Cobalt International Energy, Inc.	Allegations of links between senior government officials in Angola and an oil company that partnered with Cobalt	DOJ : Declination	Violation of Anti-Bribery provisions and internal controls provisions of FCPA	Africa	Energy	2/9/2017
Crawford & Co.	Unknown	SEC : Declination	Violation of Anti-Bribery provisions and internal controls provisions of FCPA	Unknown	Insurance	2/27/2017
Platform Specialty Products Corporation	Discovery of payments to third-party agents in connection with subsidiary's government tender business in West Africa	DOJ/SEC : Conducting internal investigation	Violation of Anti-Bribery provisions and internal controls provisions of FCPA	Africa	Chemical	5/9/2017
Innodata Inc.	Improper payments and related transactions made by foreign employees of a foreign subsidiary in connection with the subsidiary's inspection of employment-related tax requirements	DOJ/SEC : Declination	Violation of Anti-Bribery provisions and internal controls provisions of FCPA	Unknown	Technology	3/15/2017
Victor Hugo Valdez Pinon	Participated in scheme to bribe Mexican officials in order to secure aircraft maintenance and repair contracts with government-owned and controlled entities, with Montemayor conspiring to launder the proceeds	DOJ: Sentenced to 12 months and 1 day in prison, 2-years supervised release, restitution of \$90,783.50, \$275,000 forfeiture order	Conspiracy to violate Anti-Bribery provisions of FCPA and commit wire fraud	Mexico	Aviation	2/23/2017
Douglas Ray		DOJ: Sentenced to 18 months in prison, 3-years supervised release, restitution of \$589,698.87, \$200 fine				3/30/2017
Daniel Perez		DOJ: 3-years probation	Conspiracy to violate Anti-Bribery Provisions of FCPA			2/2/2017
Kamta Ramnarine		DOJ: 3-years probation				2/2/2017
Ernesto Hernandez-Montemayor		DOJ: Sentenced to 24 months in prison	Conspiracy to commit money laundering			1/12/2017

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Joo Hyun Bahn	Scheme to pay \$2.5 million in bribes to a foreign official of a Middle Eastern country to facilitate the sale by South Korean construction company Keangnam Enterprises Co., Ltd. of a 72-story commercial building known as Landmark 72 in Hanoi, Vietnam, to the country's sovereign wealth fund for \$800 million	DOJ : Indictment	Violation of Anti-Bribery provisions of FCPA, money laundering, wire fraud, aggravated identify theft	Middle East/Asia	Real Estate	1/10/2017
Ban Ki Sang						
Malcolm Harris		DOJ : Filing of a complaint	Conspiracy to violate Anti-Bribery provisions of FCPA			
Sang Woo						
Linde North America Inc. and Linde Gas North America LLC	Corrupt payments made to officials at a state-owned technology company in connection with the purchase of the company's assets	DOJ : Declination with disgorgement of \$7.8 million and forfeiture of \$3.415 million	Anti-Bribery provisions of FCPA	Eastern Europe	Oil and Gas	6/16/2017
CDM Smith Inc.	Payment of \$1.18 million through subcontractors to government officials in India to secure construction contracts resulting in a profit of \$4 million	DOJ : Declination with disgorgement of \$4.03 million	Anti-Bribery provisions of FCPA	India	Construction	6/21/2017
Samuel Mebiame	Part of a conspiracy to provide improper benefits to government officials in multiple countries in Africa; worked as a "fixer" on behalf of a joint venture company owned by New York-based hedge fund Och-Ziff and its business partner	DOJ: Sentenced to 24 months in prison	Conspiracy to violate Anti-Bribery provisions of FCPA	Africa	Financial	5/31/2017
Odebrecht S.A.	Paid bribes to secure projects using a complex network of shell companies, off-book transactions, and off-shore bank accounts	DOJ: \$93 million criminal penalty to U.S., \$24 million less than originally anticipated	Conspiracy to violate Anti-Bribery provisions of FCPA	South America	Construction	4/11/2017



Part 6: Resources

2017 FCPA MID-YEAR REPORT

Part 6: Resources

U.S. Department of Justice, Fraud Section – [Foreign Corrupt Practices Act Unit](#)

U.S. Securities and Exchange Commission – [FCPA Unit](#)

[Foreign Corrupt Practices Act of 1977](#), 15 U.S.C. §§ 78dd-1, et seq. and [unofficial translations](#)

[Foreign Corrupt Practices Act Resource Guide](#)

[BakerHostetler FCPA practice page](#)

[2016 Year-End Cross-Border Government Investigations and Regulatory Enforcement Review](#), BakerHostetler

[New AG Sessions Promises to Enforce FCPA and Hold Individuals Accountable](#), BakerHostetler Alert (Feb. 9, 2017)

[New French Anti-Corruption Law: Companies Doing Business in France Must Beware](#), BakerHostetler Alert (Nov. 22, 2016)

[FCPA and Jail – Are Corporate Officers Really At Risk?](#) BakerHostetler White Paper (Nov. 17, 2016)

[Graham and the Continuing Rejection of Limitless SEC Actions](#), Bloomberg BNA Securities Regulation & Law Report (Oct. 31, 2016)

[FCPA Chief Touts Record High Enforcement Actions – Links Avoiding a Monitor to Early Remediation of FCPA Issues](#), BakerHostetler Alert (Oct. 17, 2016)

[Recent Government Policies Deputize Companies to Root Out Global Corruption](#), Business Law Today (June 2016)

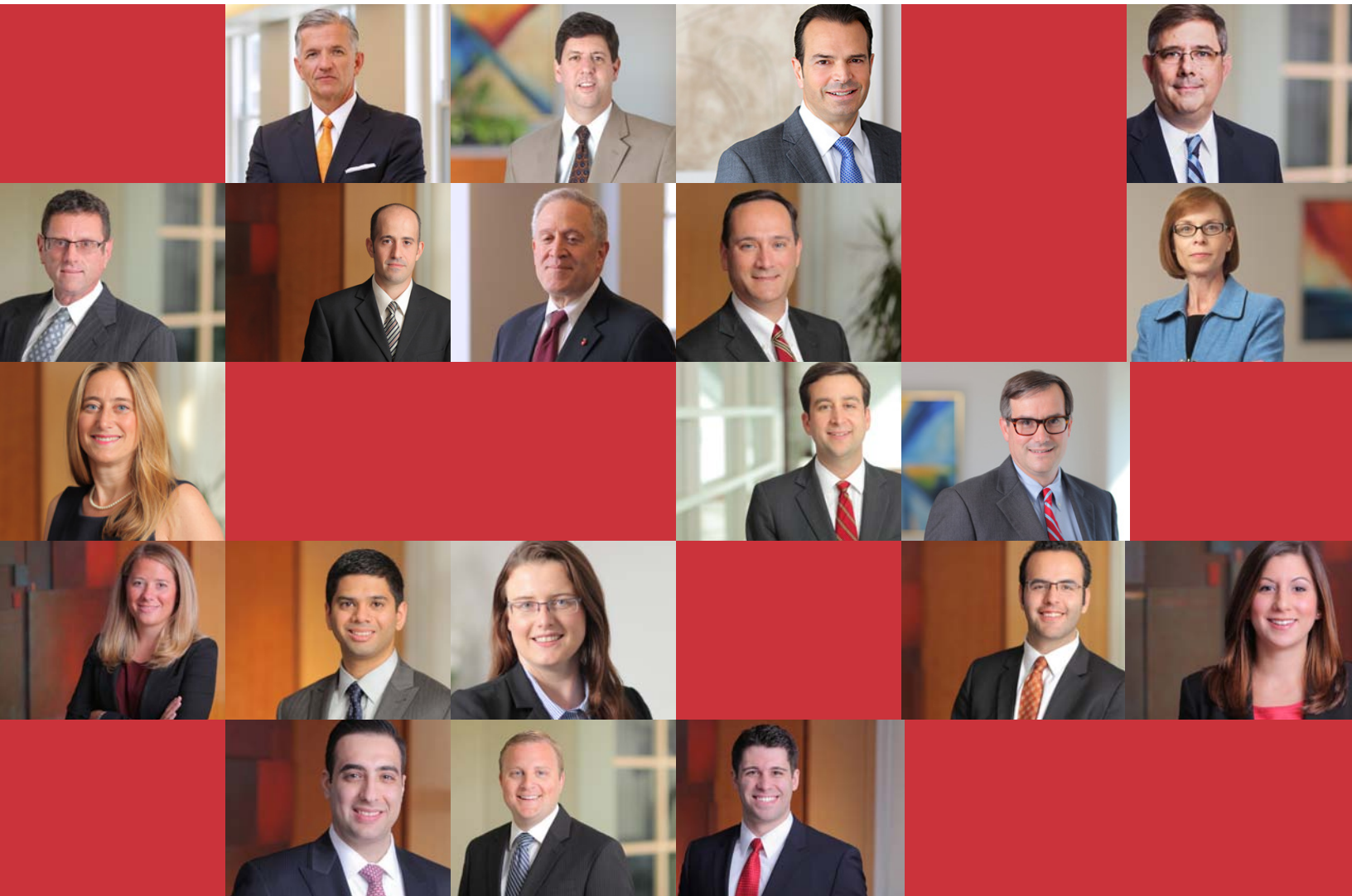
[2016 Mid-Year Cross-Border Government Investigations and Regulatory Enforcement Review](#), BakerHostetler

[Cooperating with the SEC and DOJ in a Post-Yates World](#), Wall Street Lawyer (May 2016)

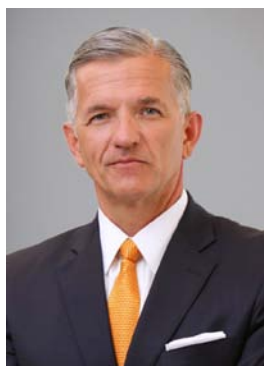
[DOJ Attempts to Encourage Corporate Self-Disclosures With the Announcement of a One-Year FCPA Pilot Program](#), BakerHostetler Alert (April 13, 2016)

[Foreign Corrupt Practices Act 2015 Year-End Update](#), BakerHostetler

[Clean Hands, Smart Deals: A Primer on Complying with Foreign Anti-Bribery Laws](#) (Nov. 2015)



Part 7: BakerHostetler Attorney Bios



John J. Carney, Partner

John J. Carney, a former securities fraud chief, assistant United States attorney, U.S. Securities and Exchange Commission senior counsel, and practicing CPA, serves as co-leader of the firm's national White Collar Defense and Corporate Investigations team. He focuses his practice on advising and defending corporations and senior officers on FCPA compliance, investigation and defense. His significant experience in conducting investigations of possible FCPA violations and other potentially improper foreign, country-based financial transactions has included working on major matters in the key BRIC countries (Brazil, Russia, India and China). Mr. Carney's "hands on," detail-oriented approach to client advocacy has earned him recognition from both Chambers USA and Securities Docket as one of the country's top white collar and securities regulatory defense attorneys.



Steven M. Dettelbach, Partner

Steven M. Dettelbach is a seasoned litigator and counselor who serves as co-leader of BakerHostetler's national White Collar Defense and Corporate Investigations team. He returned to the firm in 2016, after spending almost seven years as the presidentially appointed United States Attorney for the Northern District of Ohio. As U.S. Attorney, Mr. Dettelbach ran high-profile investigations and both supervised and personally handled large scale, crisis-level litigations, many of which involved intense public and media scrutiny. He also supervised a broad docket of complex, civil matters, representing both defendants and plaintiffs. He has worked closely with and led selection processes for independent monitors when required.

Mr. Dettelbach brings a depth of experience in managing crisis level commercial, regulatory and criminal matters, as well as in advising clients on how to structure compliance programs so as to help avoid such problems. He has served in senior policy roles at the Department of Justice, having been appointed by two Attorneys General to the prestigious Attorney General's Advisory Committee, where he worked closely with other senior leaders at the department. Prior to his appointment, Mr. Dettelbach served for almost two decades as a federal prosecutor at Main Justice and in three different United States Attorneys' Offices, as counsel in the United States Senate and as a litigator in private practice. He has represented companies and individuals in high stakes criminal, civil internal and Congressional investigations. He has tried more than 30 cases to verdict and been involved in criminal matters in more than 20 states and the District of Columbia. Mr. Dettelbach has never lost a federal criminal trial.



George A. Stamboulidis, Partner

George A. Stamboulidis serves as co-leader of BakerHostetler’s national White Collar Defense and Corporate Investigations team. Mr. Stamboulidis is the former chief of the Long Island Division of the U.S. Attorney’s Office for the Eastern District of New York and lead prosecutor in several significant high-profile cases, has been selected as an independent monitor on five separate occasions, more than any other attorney. He applied and refined his deep knowledge of the FCPA while reviewing policies and procedures for the various institutions as part of these monitorships. Additionally, he regularly conducts internal investigations, evaluates financial transaction controls, and makes recommendations for changes to ensure that adequate internal review procedures exist for clients’ organizations. Mr. Stamboulidis was quoted in the Best Practices section in *Managing Independent Monitors in Foreign Corrupt Practices Act Compliance Guidebook—Protecting Your Organization from Bribery and Corruption* by Martin and Daniel Biegelman. He received the DOJ’s coveted Director’s Award for Superior Performance three times and was named a Fellow of the Litigation Counsel of America, a trial lawyer honorary society composed of experienced and effective litigators throughout the U.S.



Jonathan R. Barr, Partner

Jonathan R. Barr, a former U.S. Department of Justice Fraud Section trial attorney, assistant United States attorney in the District of Columbia, and a former senior counsel at the U.S. Securities and Exchange Commission’s Division of Enforcement, focuses a significant portion of his practice on conducting internal investigations for public and non-public corporations, defending corporations and individuals in FCPA criminal and civil enforcement investigations, and advising corporations on FCPA compliance. He has significant experience representing corporations making voluntary disclosures to the U.S. government. He has represented clients in FCPA investigations relating to Eastern Europe, Southeast Asia, Brazil and China, and has advised public and non-public corporations on creating and implementing FCPA compliance programs.



John J. Burke, Partner

John J. Burke has advised clients on FCPA compliance issues, particularly with respect to their dealings with India, China and the Middle East, and has developed FCPA compliance programs for multinational companies with operations around the world. He has developed clauses in distribution agreements for U.S. companies to reduce their exposure to FCPA liability through the actions of their foreign distributors. Additionally, he has conducted FCPA and anti-corruption due diligence on companies being acquired by clients and has assisted companies in revising their FCPA compliance policies to incorporate requirements of the British Bribery Act 2010. Mr. Burke has held numerous in-house FCPA compliance seminars for clients, which include financial institutions, healthcare companies, data processing companies, defense contractors and consumer product companies.



Jimmy Fokas, Partner

Jimmy Fokas, a former senior counsel in the Division of Enforcement in the New York Regional Office of the SEC, has extensive FCPA investigatory experience. He has reviewed compliance policies and recommended remedial measures regarding books, records and internal controls violations for numerous clients. He conducted an investigation of possible bribes to government officials involving a supplier and a subcontractor in India, reviewed compliance policies and recommended remedial measures. He also managed a legal team in connection with the firm's appointment as independent monitor of a non-prosecution agreement between the DOJ and Mellon Bank, N.A., which involved assessment of the bank's global compliance and employee training programs. He subsequently made recommendations for enhancements to policies and procedures for data privacy, government contracting, FCPA and other compliance programs.



John W. Moscow, Partner

John W. Moscow has spearheaded investigations into some of the most complex fraud cases of the past 25 years. He has led investigations and conducted prosecutions involving money laundering and fraud at Bank of Credit and Commerce International; bank fraud in Caracas, Venezuela; the corrupt A.R. Baron & Co., Inc., stock brokerage; the Beacon Hill money-laundering case in New York; and theft by top Tyco, Inc., executives. He spent 30 years with the New York County District Attorney's Office, where he served as the chief of the Frauds Bureau and deputy chief of the Investigations Division. While there, he investigated and prosecuted cases involving international bank and tax fraud, securities fraud, theft, fraud on governmental entities and fraud in money transfer systems.

Mr. Moscow works frequently with bank and securities regulators at the state and federal levels and abroad. He has extensive experience in the international tracing of assets and is a leading authority on international corruption matters.



Jonathan B. New, Partner

Jonathan B. New, former assistant United States attorney, handled international money-laundering cases, public corruption issues and financial fraud while serving in a variety of frontline positions in the DOJ. He has considerable FCPA compliance and investigatory experience and has spoken and written extensively on these issues. He has advised clients on legal and regulatory compliance issues and has represented individuals, companies, and professionals in connection with criminal investigations conducted by the DOJ, the FBI and the IRS. He successfully defended the U.S. in landmark NAFTA litigation, was lead counsel for the Overseas Private Investment Corporation in claims against the Islamic Republic of Iran, and has defended numerous federal agencies in a wide range of lawsuits. Mr. New received a special commendation award for outstanding service in the Civil Division of the DOJ.



Carole S. Rendon, Partner

Former United States Attorney for the Northern District of Ohio, Carole Rendon possesses a wealth of experience in a range of matters, including criminal prosecution, private defense and civil litigation. As the first woman to serve as the First Assistant U.S. Attorney for the Northern District of Ohio, and later as the United States Attorney, Carole both supervised and personally handled high-profile, crisis-level litigation, much of which involved intense public and media scrutiny. As the chief federal law enforcement officer, Carole enforced a wide range of criminal and civil statutes, including False Claims Act litigation and the prosecution of public corruption, civil rights, consumer fraud and violations of the FCPA. She also oversaw and personally handled high-profile civil litigation, including as lead counsel on the Consent Decree providing comprehensive reform for the Cleveland Division of Police. Carole has significant experience managing crisis-level commercial, regulatory and criminal matters, with a particular depth of knowledge regarding the FCPA, the Racketeer Influenced and Corrupt Organizations Act (RICO), and monitorships, as well as advising clients on structuring compliance programs to help avoid such problems. Previously, Carole served for a decade as a federal prosecutor in the Organized Crime Strike Force and as Chief of the Organized Crime Drug Enforcement Task Force at the U.S. Attorney's Office in Boston, Massachusetts, and for more than a decade as a litigator in private practice.



Lauren J. Resnick, Partner

Lauren J. Resnick, former assistant United States attorney, has conducted numerous internal investigations on behalf of international companies in the financial services, pharmaceutical, healthcare and oil and natural gas industries regarding FCPA violations, accounting irregularities and conflicts of interest. She has considerable investigatory experience conducting due diligence for clients seeking overseas joint ventures, and has led internal FCPA investigations for clients in countries such as Nigeria, China and Spain. She regularly advises corporate clients on optimizing internal controls and corporate governance, revising business codes of conduct, and designing policies and procedures to enhance statutory and regulatory compliance. She has extensive experience advising clients on FCPA compliance issues and has remediated numerous books and records violations. Additionally, Ms. Resnick has supervised numerous monitorships in connection with the firm's appointment by the DOJ and other governmental agencies to assess compliance procedures, including FCPA policies and procedures. She was recognized among The Best Lawyers in America® 2013 and as a New York "Super Lawyer" since 2011 and twice received the DOJ's prestigious Director's Award for Superior Performance.



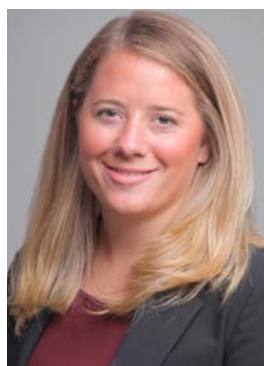
Gregory S. Saikin, Partner

Gregory S. Saikin served as an assistant United States attorney in the Southern District of Texas, investigating and prosecuting individual and corporate targets for a variety of fraud, public corruption, and money-laundering violations. These investigations and prosecutions involved conduct occurring in Mexico, requiring close coordination with the FBI Border Liaison Office and various Mexican law enforcement agencies. Mr. Saikin began his career in large law firms representing corporations, corporate officers, and audit committees in connection with FCPA compliance and enforcement matters. He is an author and speaker on a wide range of white collar topics, including grand jury practice, corporate charging policies, and the federal sentencing guidelines. As a federal prosecutor, he received a number of awards, including the Integrity Award from the inspector general of the U.S. Department of Health and Human Services. He was also recognized by the FBI director for outstanding prosecutorial skills and by the U.S. Secret Service director for superior contributions to law enforcement.



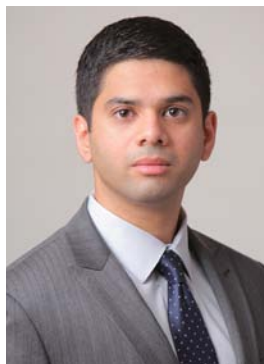
Edmund W. Searby, Partner

Edmund W. Searby is a former federal prosecutor with the DOJ and the Office of the Independent Counsel. He has conducted criminal investigations and internal investigations involving the FCPA, export controls and international money laundering. In particular, he has conducted a number of FCPA investigations arising in the context of due diligence on potential mergers and acquisitions. He has also drafted and implemented FCPA, antitrust and general compliance policies for a number of FORTUNE 500 companies and other corporations. Mr. Searby has spoken and published articles on the FCPA and other anti-bribery issues. In recognition for his work as a federal prosecutor, Mr. Searby received letters of commendation from the attorney general of the United States and the director of the FBI.



Lauren P. Berglin, Associate

Lauren Berglin focuses her practice on complex commercial litigation, regulatory enforcement and white collar defense. Ms. Berglin assists individuals and corporations with federal regulatory investigations and compliance matters in the financial industry. Ms. Berglin is able to analyze complex facts and provide thorough analyses while assisting clients.



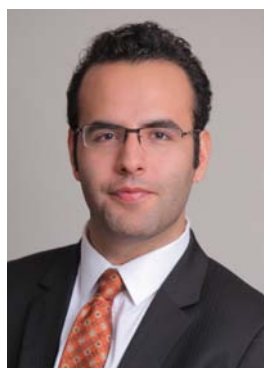
Susrut A. Carpenter, Associate

A former prosecutor, Sonny Carpenter has tried several complex jury trials and has led numerous investigations while in the government and as a defense attorney. Focusing his practice in the areas of white collar defense/corporate investigations and commercial litigation, Sonny regularly defends individuals and corporations in federal and state investigations, complex business litigation, and government contract compliance matters. While in the government, he worked closely with the Department of Justice, Department of Homeland Security and Department of Defense. Sonny uses that experience to support clients by advising and defending them in matters involving FCPA compliance, Securities and Exchange Commission (SEC) enforcement, procurement fraud investigations, and various other issues pertaining to compliance measures and enforcement by regulators.



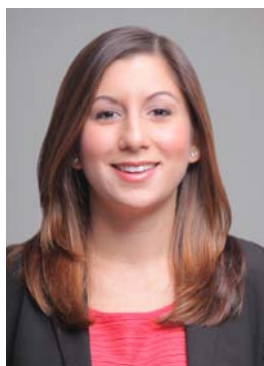
Margaret E. Hirce, Associate

Margaret Hirce focuses her practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. Ms. Hirce represents corporations and individuals in regulatory and criminal investigations as well as civil litigation involving allegations of securities fraud. Ms. Hirce has experience advising global corporations and financial institutions on compliance with AML laws and regulations, the FCPA and OFAC sanctions programs. Among other matters, she has worked on a team representing a healthcare technology company in a multimillion-dollar contract dispute in arbitration in London.



Marco Molina, Associate

Marco Molina is an international litigator who focuses his practice on the FCPA, white-collar criminal defense, securities and commercial litigation. Mr. Molina has experience representing Fortune 500 companies with respect to FCPA investigations and other FCPA-related matters, and has conducted internal corporate investigations in response to subpoenas by the SEC and the DOJ pertaining to federal securities and environmental laws. Mr. Molina has also conducted multinational investigations in the United States, Europe and the Caribbean to trace billions of dollars of assets, and collaborated with foreign government officials, including public prosecutors and senior justice department officials, in foreign criminal investigations. Mr. Molina has successfully defended clients in New York federal court and at the Second Circuit Court of Appeals against charges pertaining to insider trading, market manipulation and other types of securities fraud under the federal securities laws. Mr. Molina is heavily involved in our FCPA business development efforts in Latin America.



Bari Nadworny, Associate

Bari Nadworny focuses her practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. She represents individuals in regulatory matters and criminal investigations involving allegations of securities fraud. Ms. Nadworny efficiently masters complicated facts and provides thorough analyses, making her a valuable member of the teams on which she serves.



Andrew M. Serrao, Associate

Andrew Serrao focuses his practice on the FCPA, white-collar criminal defense and bankruptcy litigation. Mr. Serrao has experience conducting FCPA investigations and defending against FCPA-related charges, and has conducted an internal corporate investigation on behalf of a Fortune 500 company in response to a DOJ warrant and subpoena. Mr. Serrao has also conducted multinational investigations in the United States, Europe and the Caribbean to trace billions of dollars of assets, and has collaborated with foreign government officials, including public prosecutors, in foreign criminal investigations. Mr. Serrao is heavily involved in our FCPA business development efforts in Latin America.



Elias D. Trahanas, Associate

Elias Trahanas focuses his practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. Mr. Trahanas has experience representing corporations and individuals in criminal investigations, regulatory litigation, FCPA investigations, civil forfeiture proceedings and civil litigation involving allegations of securities fraud. Mr. Trahanas also has experience advising investment managers and hedge funds regarding litigations impacting their investment and operating strategies.



Kendall E. Wangsgard, Associate

Kendall Wangsgard focuses his practice on complex commercial litigation, as well as white collar defense and corporate investigations related to federal criminal and regulatory investigations, securities regulations, and Foreign Corrupt Practices Act (FCPA) compliance. Specifically, Kendall performs extensive representation of corporate and institutional clients with respect to internal investigations, subpoena compliance, and compliance reviews.

For more information about the Foreign Corrupt Practices Act, or if you have questions about how FCPA may impact your business, please contact the following BakerHostetler attorneys or visit our website bakerlaw.com/FCPA.

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