

A Modern [Fractured] Fairy Tale - Challenges under the FCPA in Africa

For anyone growing up in the 1960s one of the best TV cartoon shows was Rocky and Bullwinkle. As I grew older I came to appreciate the reason for this which was that the show was written for adults so that most of the satire was timeless. It still holds up today, especially if you understand the cultural references. There were other short segments, in addition to the main characters, one of which was entitled “*Fractured Fairy Tales*” featuring a satirical look at classic fairy tales. So with that inspiration in mind, today we present a fractured fairy tale of some of the challenges which face US companies doing business in Africa in complying with the Foreign Corrupt Practices (FCPA) or UK Bribery Act. In a later post, I will provide some guidance to the issues raised in today’s post.

*Ed. Note. The following is a **fictional tale** and any resemblance to a person or persons living or dead is purely coincidental.*

Hello. I wanted to clear up some misconceptions that you might have regarding doing business in my country. We are a small country population wise but we are rich in resources. It should not surprise you then to find out that the educated business elites of our country often work with and for our government’s interests. What is wrong with that? I am a patriot and I always look out for my country’s interests. If I get rich along the way, what is the harm? Surely there is no corruption in that?

Of course I have heard about the FCPA and the Bribery Act. But after all, they are your laws, not ours, so really they are your problem aren’t they? There is no corruption when you pump some of your profits back into the local economy is there? If there is how will my people ever overcome the great poverty we have endured? Do you want to keep us down economically? If I ask you to make a donation to a charity, which my wife runs, that is good for my country, what is wrong with me asking you to do that? It is also proper that I can help guide my wife in her decisions about where to spend the money donated. Surely there is no corruption in that?

I see nothing wrong in having a Swiss bank account. Everyone knows that Switzerland has the safest banking system in the world. Do you really believe that it is my fault I have made lots of money and that I have a desire to protect it from the ravages of inflation? I recently read about the people of Greece who are taking money out of their banking system and moving it to a more safe location. Surely there is no corruption in that? And what about your US Presidential Candidate, didn’t I read that once he and his wife had Swiss bank accounts? Why do you claim that it raises a “Red Flag” with me but not so with him?

I think it only decent and appropriate that you have a local business partner when dealing with my country. We want to empower our locals and the best way to do that is if you partner with local companies. Simply because I may happen to own an interest in the local business partner, is no reason not to do business with it. I am very serious in the fight against poverty for my country

and I cannot think of a better way to do so than to have a local partner. Surely there is no corruption in that?

Yes, you sent a form for the local partner to fill out listing all of its owners, but it is not their fault that they don't know who owns them; frankly they do not need to know. You really can't expect me to know all of the businesses in which I own an interest in? There are just too many. Surely there is no corruption in that?

All I am asking you to do is to help my people. Do you want them to go hungry for the whole world to see? I don't think that you do. That is why you should keep giving power and money to our local citizens. It is you taking our wealth; I see no reason why we should not benefit, even if it is for me and my friends. Surely there is no corruption in that?

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