

CCI: Background and Criminal Allegations-Part I

The US anti-bribery/anti-corruption and compliance world has literally been “a-twitter” over the filing of a brief which puts squarely before a federal district court the questions of just what is an “instrumentality” of a foreign government and who is a foreign government official under the Foreign Corrupt Practices Act (FCPA).

The individual defendants were all former employees of the California valve-maker Control Components Inc., (CCI), of Rancho Santa Margarita, California. While the case has been ongoing for over two years, we thought that it might be a propitious time to review the background facts of the case and the allegations against the individual defendants. Today we will discuss the background facts and the plea of the company. In tomorrow’s post, we will discuss the criminal allegations, separate and apart from the FCPA allegations against the individual defendants.

I. The Underlying Facts

CCI designs and manufactures service control valves for use in the nuclear, oil and gas, and power generation industries. It is owned by British-based IMI plc., which trades on the London Stock Exchange under the symbol IMI.L. In July 2009, CCI pled guilty to violating the anti-bribery provisions of the FCPA and the Travel Act. It admitted bribing foreign officials in a decade-long scheme to secure contracts in about 36 countries. CCI's plea agreement requires it to pay a criminal fine of \$18.2 million, implement an anti-bribery compliance program, retain a compliance monitor for three years, serve a three-year term of organizational probation and cooperate with the Department of Justice’s (DOJ) ongoing investigation.

As reported in the FCPA Blog, CCI admitted that from 2003 through 2007, they made about 236 corrupt payments to foreign officials in more than 30 countries amounting to \$4.9 million. The corrupt payments were made to foreign officials at state-owned entities including Jiangsu Nuclear Power Corp., Guohua Electric Power, China Petroleum Materials and Equipment Corp., PetroChina, Dongfang Electric Corporation (China), China National Offshore Oil Corporation, Korea Hydro and Nuclear Power, Petronas (Malaysia) and National Petroleum Construction Company (United Arab Emirates). The bribes resulted in sales that produced net profits of about \$46.5 million.

II. Charges Against the Individual Defendants

a. Settling Defendants

In addition to CCI’s guilty plea, two former executives pleaded guilty in 2009 to conspiring to bribe officers and employees of foreign state-owned companies on behalf of the valve company. Mario Covino, CCI’s former director of worldwide factory sales, pled guilty on January 8, 2009 to one count of conspiracy to violate the FCPA and admitted to causing the payment of \$1 million in bribes to officers and employees of several foreign state-owned companies.

Richard Morlok, CCI's former finance director, pled guilty on February 3, 2009 to one count of conspiracy to violate the FCPA and admitted to causing the payment of \$628,000 in bribes to officers and employees of several foreign state-owned companies. Morlok said in his plea agreement that CCI earned about \$3.5 million in profits from contracts obtained through the bribes. Illegal payments, he said, went to employees at China National Offshore Oil Company, PetroChina, Jiangsu Nuclear Power Corporation (China), KHNP (Korea), Rovinari Power (Romania) and Safco (Saudi Arabia), among others. Morlok also admitted that during a 2004 audit he provided false and misleading information about CCI's commission payments to agents.

b. Non-Settling Defendants

On April 8, 2009, six former CCI executives were charged in a 16-count indictment with violating the FCPA and the Travel Act. They are: Stuart Carson, CCI's former chief executive officer, Hong (Rose) Carson, CCI's former director of sales for China and Taiwan, Paul Cosgrove, CCI's former director of worldwide sales, David Edmonds, CCI's former vice president of worldwide customer service, Flavio Ricotti, CCI's former vice-president and head of sales for Europe, Africa and the Middle East, and Han Yong Kim, the former president of CCI's Korean office. As reported by the FCPA Blog the charges against the individual defendants are as follows:

- **Stuart Carson** - charged with one count of conspiracy to violate the FCPA and the Travel Act, and two counts of violating the FCPA;
- **Hong (Rose) Carson** - charged with one count of conspiracy to violate the FCPA and the Travel Act, five counts of violating the FCPA and one count of destruction of records in connection with a matter within the jurisdiction of a department or agency of the United States;
- **Paul Cosgrove** - charged with one count of conspiracy to violate the FCPA and the Travel Act, six counts of violating the FCPA and one count of violating the Travel Act;
- **David Edmonds** - charged with one count of conspiracy to violate the FCPA and the Travel Act, three counts of violating the FCPA and two counts of violating the Travel Act;
- **Flavio Ricotti** - charged with one count of conspiracy to violate the FCPA and the Travel Act, one count of violating the FCPA and three counts of violating the Travel Act; and
- **Han Yong Kim** - charged with one count of conspiracy to violate the FCPA and the Travel Act, and two counts of violating the FCPA.

As reported by the FCPA Professor, defendant Ricotti was arrested on February 14, 2010, in Frankfurt, Germany and was extradited to the US in connection with his alleged participation in a conspiracy to secure contracts by paying bribes to officials of foreign state-owned companies as well as officers and employees of foreign and domestic private companies. He arrived in the United States on July 2, 2010.

In tomorrow's post we will review the criminal allegations brought against the defendant for violations of the Travel Act and the federal obstruction of justice charge against defendant Hong Carson.

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