

## **Canadian Practice Law Update**

**02/13/2013**

### **Canadian Companies Beware: The Canadian Government Continues Its Focus on Anti-Corruption Prosecutions**

Following on the heels of the U.S. Department of Justice's recent guidance on the Foreign Corrupt Practices Act ("FCPA"), events in Canada provide further reason for companies on both sides of the border to increase compliance training and practices with regard to preventing or uncovering bribery by employees.

On January 16, 2013, Calgary-based Griffiths Energy International Inc. was charged by the Public Prosecution Service of Canada ("PPSC") with one count under Section 3(1)(b) of Canada's Corruption of Foreign Public Officials Act. Canada's Corruption of Foreign Public Officials Act ("CFPOA") makes it an offense to directly or indirectly give or offer a loan, reward, advantage or benefit of any kind to a foreign public official "in order to obtain or retain an advantage in the course of business." The charges stemmed from a bribery scheme in which the company paid bribes to the spouse of a public official in order to secure lucrative energy properties in the Republic of Chad in Africa. The case is significant in several respects. First, the company came to the government with evidence of the violations. Moreover, the company was a comparatively small private oil company that had completely revamped its Board and senior management when it uncovered the crimes. Notwithstanding these militating factors, the company was prosecuted and had to pay a \$10.35 million penalty — the largest fine the Royal Canadian Mounted Police has garnered since establishing specialized teams to investigate foreign corruption.

In addition to aggressive prosecutions like the case described above, the Canadian government is about to add more teeth to its anti-corruption laws.

On February 5, 2013, the Canadian government announced important amendments to the CFPOA. These amendments are expected to be easily and quickly passed by the Canadian Parliament. The amendments include these key changes to the law: 1) provides international reach for CFPOA offenses, which means a Canadian company or individual can be prosecuted even if the bribe took place outside of Canada — under the current law, prosecution had to prove a "real and substantial connection" with Canada; 2) eliminates the exemption of facilitation payments from prosecution; 3) creates a "books and records offense" for improper accounting of the bribe; and 4) increases the maximum penalty for individuals from five years to 14 years.

The thrust of these changes is to make it much easier for the Canadian government to assert jurisdiction over international bribery cases and much easier to obtain convictions and seek severe sentences.

**For more information, please contact the Canada Practice Group at  
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