FCPA/Anti-Corruption Alert: China fines multinational company and hands down prison sentences to executives

JENNIFER ARMSTRONG | LITIGATION TRENDS | SEP 22, 2014

In a case that is sending chills down the spines of multinational companies, after a one-day secret trial China recently imposed a record fine of almost $500 million on pharmaceutical giant GlaxoSmithKline for bribing hospitals and doctors – and in a rare move also prosecuted the foreign-born executive who ran Glaxo's Chinese unit, reports The New York Times and the FCPA Blog.

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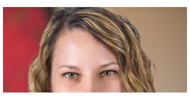
The alleged scheme was carried out by channeling illicit kickbacks through travel agencies and pharmaceutical industry associations. GSK's former head of China operations, Mark Reilly, was given a three-year prison sentence that was suspended and ordered Reilly to be deported. Other GSK executives who are China nationals were also sentenced to between two and four years in prison. Reuters reports that GSK is under investigation in the U.S. for violations of the Foreign Corrupt Practices Act ("FCPA"), which prohibits bribery of public officials, as well as in Poland, Syria, Iraq, Jordan and Lebanon..

The New York Times article said that other global drug makers have grave concerns because they used the same Shanghai travel agency that the authorities in the Glaxo case said had altered corporate travel expenses to pay cash bribes. "It's very hard to do business in the Chinese health care and pharmaceutical sectors without doing payoffs," said David Zweig, the director of the Center on China's Transnational Relations at the Hong Kong University of Science and Technology. "Everyone else pays bribes. Glaxo just got caught."

Although Beijing denies it, multinational companies have charged that the Glaxo case shows that the Chinese government is cracking down on foreign companies in an effort to help Chinese companies compete. For example, *The New York Times* reports that two antitrust lawyers involved in other cases said in separate interviews that Chinese officials had rushed investigations along, sometimes in a few weeks, with little chance for multinationals to present their side. In some antimonopoly cases this summer, multinational company executives have not even been allowed to bring their lawyers to meetings with regulators, the lawyers said, both of whom insisted on anonymity because they were representing clients in litigation. In many cases, regulators demanded that multinationals sharply reduce prices for products. Glaxo and a growing list of automakers have already done so.

So what is the take-away here for your business? If your company is doing business in China and is concerned with staying on the right side of the FCPA and other bribery laws, check out my recent blog post here. It explains why investing in a robust anti-bribery compliance program can save your company enormous costs by potentially avoiding prosecution for FCPA and bribery violations by rogue employees, like the Glaxo case. It also gives seven practical tips your company can take to implement an effective FCPA/anti-brivery compliance program.



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