

ALERT

# Former Siemens Executives Charged with FCPA Violations by DOJ and SEC

December 21, 2011

On December 13, 2011, the U.S. Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) charged eight former executives and agents of the German company Siemens AG with conducting a decade-long bribery scheme intended to win a contract with the Argentine government.<sup>1</sup> According to DOJ and the SEC, the individuals paid or authorized more than \$100 million in bribes to Argentine government officials to secure a \$1 billion contract to produce Argentine national identity cards. Ultimately, Siemens did not win the contract.

DOJ charged the defendants and their co-conspirators with conspiracy to violate the Foreign Corrupt Practices Act (FCPA), money laundering and wire fraud.<sup>2</sup> The SEC's complaint alleges the defendants committed multiple civil violations of the Securities Exchange Act of 1934, including authorizing or directing others to falsify documents in furtherance of the bribery scheme.<sup>3</sup>

These charges follow a related enforcement action against Siemens AG in 2008, which resulted in the largest settlement payment ever brought under the FCPA. Three years ago, Siemens AG and its Argentine subsidiary paid a record \$800 million to settle related FCPA charges brought by DOJ and the SEC (and an additional \$800 million to settle similar charges in Germany).

This set of indictments-which serves as a reminder of the importance of a strong corporate compliance program-illustrates two current trends in FCPA enforcement: the extraterritorial reach of U.S. enforcement agencies and the prosecution of individuals in addition to companies. First, the indictments involve German and Argentine citizens doing business in Argentina. Despite the non-U.S. citizenship

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of the actors and location of the alleged bribery, the United States claims jurisdiction to act in this matter because Siemens' common shares are registered with the SEC and trade on the New York Stock Exchange, and because the individuals allegedly laundered \$25 million through U.S. banks. As is becoming more common, the U.S. enforcement agencies cooperated with their foreign counterparts to build the case. DOJ reports that it and the SEC "closely collaborated" with the Munich Public Prosecutor's office to obtain evidence and ultimately bring the case.

Second, the charges also illustrate the continuing trend of increased FCPA prosecution of individuals. While the DOJ has continued to demonstrate a commitment to aggressively pursue companies for FCPA violations, individuals have been increasingly targeted for criminal prosecution in recent years. For the criminal charges in this case, the defendants face a maximum prison sentence of five years for each FCPA count and a maximum sentence of 20 years for the money laundering charge. In several recent cases, corporate executives and employees have received significant jail time and stiff criminal penalties for FCPA violations.<sup>4</sup>

A copy of the SEC complaint can be found here.

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<sup>1</sup> The charged individuals include Uriel Sharef, a former member of Siemens' central executive committee; Herbert Steffen, a former chief executive officer of Siemens Argentina; Andres Truppel, a former chief financial officer of Siemens Argentina; Ulrich Bock, Stephan Signer and Eberhard Reichert, former senior executives of Siemens Business Services; and Carlos Sergi and Miguel Czysch, intermediaries and agents of Siemens. Miguel Czysch was not charged by the SEC.

<sup>2</sup> See U.S. Dep't Justice, Press Release 11-1626, *Eight Former Senior Executives and Agents of Siemens Charged in Alleged \$100 Million Foreign Bribe Scheme* (Dec. 13, 2011), available at <http://www.justice.gov/opa/pr/2011/December/11-atj-1626.html>.

<sup>3</sup> A copy of the SEC complaint, filed in the U.S. District Court for the Southern District of New York, is available at <http://www.sec.gov/litigation/complaints/2011/comp22190.pdf>.

<sup>4</sup> See, e.g., U.S. Dep't Justice, Press Release 09-1220, *Former Willbros International Consultant Pleads Guilty to \$6 Million Foreign Bribery Scheme* (Nov. 12, 2009), available at <http://www.justice.gov/opa/pr/2009/November/09-crm-1220.html>; U.S. Dep't Justice, Press Release 08-772, *Former Officer and Director of Global Engineering and Construction Company Pleads Guilty to Foreign Bribery and Kickback Charges* (Sept. 3, 2008), available at <http://www.usdoj.gov/opa/pr/2008/September/08-crm-772.html>.