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What Companies Can Learn from the Ralph Lauren Corporation FCPA Case

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Last week, a subsidiary of American fashion designer Ralph Lauren Corporation made global news for violations of The Foreign Corrupt Practices Act of 1977 ("FCPA"). In short, FCPA prohibits covered entities – i.e., those that reside in the United States or entities that are considered "issuers" under the securities laws of the United States – from paying anything of value to a foreign government official to obtain or retain a business advantage or for the purpose of directing business to any person.

As a condition of receiving non-prosecution agreements from DOJ and SEC, Ralph Lauren Corporation admitted that its subsidiary in Argentina ("RLC Argentina") paid more than \$500,000 in bribes to customs officials in Argentina. These payments procured improper paperwork, expedited goods through customs, and helped RLC Argentina avoid the inspection of products by customs officials. Separately, during this time period, RLC Argentina also provided improper gifts to Argentinean officials. These payments and gifts were misrepresented on the books and records of RLC Argentina, financial reports that ultimately were included in the consolidated financial reports of Ralph Lauren Corporation, the publicly-traded parent company.

Nevertheless, the Department of Justice and the Securities Exchange Commission announced that each had entered into a non-prosecution agreement ("NPA") with Ralph Lauren Corporation for FCPA violations. Among other terms of these NPAs, Ralph Lauren Corporation agreed to pay the Government in excess of \$1.6 million as civil disgorgement, penalties, and interest charges. Nevertheless, these civil remedies obtained by the Government represent a very significant downward departure from the criminal and civil penalties that DOJ and SEC could have sought from Ralph

Lauren Corporation.

Although these facts are not particularly remarkable, the Government's response is. According to the SEC, this is the first time that it has issued an NPA in the FCPA context. Notably, DOJ and SEC cited three factors in particular that contributed to this result: (a) upon learning of the misconduct, RLC immediately took steps to end it; (b) RLC thoroughly reviewed its pre-existing compliance program and took steps to update and enhance its program; (c) RLC provided extensive, thorough, real-time cooperation to the Government; and (d) RLC agreed to provide ongoing reporting to the Government for a period of two years.

Fundamentally, the result here highlights the critical function that a robust compliance program plays for organizations that do business abroad, either directly or through subsidiaries or business partners. We recommend that such companies review and update anti-corruption compliance policies, implement those policies globally, train relevant employees about those policies, and investigate potential violations. Polsinelli has a team of litigators dedicated to helping clients avoid corruption-related problems and to minimizing the impact of those problems should they arise.

For More Information

For further information or to learn how this decision could impact your business, please contact:

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