

JUSTICE NEWS

Assistant Attorney General Leslie R. Caldwell Speaks at American Conference Institute's 31st International Conference on the Foreign Corrupt Practices Act

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Thank you for that kind introduction. I am honored to be here with you and the other participants in this bribery and corruption conference.

As many of you may know, I have spent most of my professional career handling federal criminal cases, both as a prosecutor and as defense counsel. For the past six months, I have been honored to serve as the Assistant Attorney General for the Justice Department's Criminal Division. As I quickly learned, the work of the Criminal Division is incredibly wide ranging – from fighting financial fraud, to combating cybercrime, corruption, child exploitation and organized crime, just to name a few. Today, I want to focus my remarks on one of our most important enforcement priorities – our efforts to combat corruption around the world.

At the Criminal Division, we are stepping up our efforts in the battle against corruption, at home and abroad. Through our Public Integrity Section, which prosecutes corruption cases involving U.S. federal, state, and local officials, we are attacking domestic corruption.

More relevant to this audience, we are also deeply committed to fighting corruption abroad. Now, more than ever, we are bringing to justice individuals and corporations who use foreign bribery as a way to gain a business advantage. In part, we are doing this using the tools and methods that have made our past enforcement efforts so successful – FCPA prosecutions and penalties.

But there have been some really big changes in the Justice Department's FCPA work since I last worked there. First, thanks to the expertise and knowledge we have acquired over the years, we are now able to investigate FCPA cases much more quickly. We also are better equipped to prosecute individuals who are actually making corrupt payments, as well as intermediary entities hired to serve as conduits for bribes.

And now we also are prosecuting the bribe takers, using our money laundering and other laws. And, importantly, we have begun stripping corrupt officials of the proceeds of their corruption involving both bribes and kleptocracy, using both criminal and civil authorities.

The Criminal Division's FCPA enforcement program and our Kleptocracy Initiative are really two sides of the same anti-corruption coin. We bring those who pay bribes to justice, no matter how rich and powerful they are. But by itself, that is not enough. We also attack corruption at its source – by prosecuting and seizing the assets of the corrupt officials who betray the trust of their people.

Another big change – one that has been building for years but now has really developed momentum – is that we increasingly find ourselves shoulder-to-shoulder with law enforcement and regulatory authorities in other countries. Every day, more countries join in the battle against transnational bribery. And this includes not just our long-time partners, but countries in all corners of the globe.

Together with our foreign law enforcement and regulatory partners we are taking a truly global approach to rooting out international corruption. And make no mistake, this international approach has dramatically advanced our efforts to uncover, punish and deter foreign corruption.

Increasingly, we and our counterparts share information about bribery schemes. We report schemes to one another. And, where appropriate, we discuss strategy and coordinate our use of investigative techniques, so that we can obtain the best possible results, especially in very high-impact cases.

These efforts are incredibly important. The World Bank estimates that more than \$1 trillion is paid every year in bribes, which amounts to about 3 percent of the world economy. That amount is stunningly wasteful. No one benefits from corruption other than the corrupt officials.

But corruption is far more insidious and harmful than can be measured numerically. We all know that when corruption takes hold, the fundamental notion of playing-by-the-rules gets pushed to the side, and individuals, businesses and governments instead begin to operate under a fundamentally unfair – and destabilizing – set of norms. This undermines confidence in the markets and governments, and destroys the sense of fair play that is absolutely critical for the rule of law to prevail.

In emerging economies, corruption stifles economic development that would lift people out of poverty, improve infrastructure, and better people's lives. And the fruits of corruption can prop up autocratic and oppressive rulers even in wealthier countries.

Make no mistake, the effects of foreign corruption are not just felt overseas. In today's global economy, the negative effects of foreign corruption inevitably flow back to the United States. For one, American companies are harmed by global corruption. They are denied the ability to compete in a fair and transparent marketplace. Instead of being rewarded for their efficiency, innovation, and honest business practices, U.S. companies suffer at the hands of corrupt governments and lose out to corrupt competitors.

International corruption also presents broader public safety concerns. Indeed, criminal networks of all kinds, including narcotics traffickers, cyber criminals, terrorists, and human traffickers, often take advantage of countries whose commitment to the rule of law is weakened by corruption of its officials. And, as we've seen in the more extreme cases, thoroughly corrupted regimes have created safe havens for criminals by giving them a secure base from which they can orchestrate their criminal activities.

You have no doubt heard my predecessors speak of the evils of corruption. It is because of these evils that the fight against international bribery has been, and continues to be, a core priority of the Department of Justice.

Our commitment to the fight against foreign bribery is reflected in our robust enforcement record in this area, which includes charges against corporations and individuals alike from all over the world. Since 2009, we have convicted more than 50 individuals in FCPA and FCPA-related cases, and resolved criminal cases against more than 50 companies with penalties and forfeiture of approximately \$3 billion. Twenty-five of the cases involving individuals have come since 2013 alone. And those are just the cases that are now public. These individuals run the gamut of actors involved in bribery schemes: corporate executives, middlemen, and corrupt officials.

These successes are the result of the hard work and diligence of the talented prosecutors in our Fraud Section's FCPA Unit and our Office of International Affairs, who work in tandem with federal prosecutors across the country at many of the 94 U.S. Attorney's Offices, the FBI, and other law enforcement agencies.

As our enforcement actions demonstrate, we are focusing our attention on bribes of consequence – ones that fundamentally undermine confidence in the markets and governments. And our record of success in

these prosecutions has allowed us to show – rather than just tell – corporate executives that if they participate in a scheme to improperly influence a foreign official, they will personally risk the very real prospect of going to prison.

I'd like to briefly discuss a few examples of the kinds of corruption cases that we are prioritizing today.

In April of this year, we charged the chief executive officer and a managing partner of Direct Access Partners, a New York-based U.S. broker-dealer, for their involvement in a scheme to pay bribes to a senior official in Venezuela's state economic development bank, BANDES. As alleged in the indictment, the chief executive officer, the managing partner, and several employees of the broker-dealer paid more than \$5 million in bribes to a Venezuelan official in exchange for the official directing lucrative trading business to the broker-dealer, generating more than \$60 million in commissions.

That may have seemed lucrative at the time, but the executives and employees are now paying the price for their corrupt conduct. To date, five Direct Access Partners executives and employees have been charged in connection with this scheme, and three of those individuals have pleaded guilty. We have also charged the Venezuelan official for her involvement in the scheme and she has pleaded guilty to several charges, including money laundering and Travel Act violations.

And, notably, we seized several million dollars of illicit proceeds from the defendants, including the Venezuelan official, which will be forfeited following their sentencing.

Stripping individuals of the proceeds of their conduct – and thus depriving them of the very profits that are driving the corrupt conduct in the first place – is one technique that we are using increasingly in our fight against foreign bribery. And, we are not just pursuing these corrupt proceeds through criminal actions.

The FCPA Unit's efforts to eradicate foreign corruption also are assisted by the work of our Kleptocracy Asset Recovery Initiative, through which prosecutors in the Criminal Division's Asset Forfeiture and Money Laundering Section and Office of International Affairs are pursuing ill gotten riches from corrupt officials using our civil authority.

Again with the assistance of countries around the globe, the Kleptocracy Initiative has achieved significant successes since its inception just a few years ago. As just one recent example of the initiative's success, about a month ago, we settled a forfeiture action involving assets of the sitting Second Vice President of the Republic of Equatorial Guinea, who also is the son of the President of that country.

During the son's more than 16 years in public office, he received an official government salary of less than \$100,000. But, by using – or abusing – his position and influence as a government minister, he amassed tens of millions of dollars through corruption and money laundering. He used this money to fund a lavish lifestyle, which included a \$30 million Malibu mansion, a Ferrari, and hundreds of thousands of dollars in Michael Jackson memorabilia, including the famous glove. This made for a unique forfeiture case caption: United States v. One White Crystal-Covered Bad Tour Glove.

Under the terms of the settlement agreement, the son is required to forfeit his assets in the United States, including his Malibu mansion, Ferrari, and certain Michael Jackson memorabilia, as well as a sum of \$1 million, which represents the value of the assets he removed from this country, including the famous glove.

This action, and the Kleptocracy Initiative's other successes demonstrate that we are ready, willing, and able to confiscate the riches of corrupt leaders who drain the resources of their countries for their own benefit.

As I noted, our efforts to hold bribe takers as well as bribe payors accountable for their criminal conduct are greatly aided by our foreign partners. Transnational bribery is a global problem and an international

solution truly is beginning to develop. Every day, more countries reject the notion that bribery in international business is inevitable and acceptable. Indeed, in just the last few years several countries have enacted new anti-corruption laws or enhanced existing laws. Admittedly, the global trend against foreign corruption continues to face many challenges, but the tide has turned and I truly believe that it is now on our side.

This level of collaboration is the product of hard work and strategic coordination, which has allowed us to forge the international partnerships that are essential to fight global corruption. For example, just a couple of weeks ago, about 200 judges, prosecutors, investigators, and regulators from more than 50 countries, multi-development banks, and international organizations around the world joined prosecutors, investigators, and regulators from the Criminal Division, SEC, and FBI in Washington, D.C., for a week long training course to exchange ideas and best practices on combating foreign corruption.

I had the opportunity to participate in this meeting and saw its value first-hand. The meeting provided a critical opportunity for the people who fight global corruption in the trenches every day to meet face-to-face, discuss ongoing cases, identify new opportunities to collaborate, and improve intelligence sharing.

The results from this increased international collaboration speak for themselves. For example, earlier this year, countries across the globe worked together to hold accountable individuals and companies engaged in a scheme to bribe government officials in Indonesia.

For many years, executives of Marubeni Corporation, a Japanese trading company, Alstom, a French energy company, along with executives of some of Alstom's U.S. and Swiss-based subsidiaries, and others engaged in a scheme to pay millions of dollars in bribes to a high ranking member of the Indonesian Parliament and other Indonesian officials in exchange for assistance in securing a \$118 million contract to provide power-related services in Indonesia.

The actors and actions in this scheme spanned the globe – from Indonesia, to the United States, Japan, Singapore, Switzerland, France and the United Kingdom. Because of our cooperative relationships with our law enforcement partners in these countries, we were able to share vital information and evidence among countries and access individuals located overseas. This coordination enabled us to counter to this intercontinental bribery scheme with an authoritative international response.

We charged Marubeni for its participation in the scheme. Marubeni pleaded guilty in U.S. federal district court and was assessed an \$88 million penalty in connection with its corrupt conduct. We have also charged four Alstom executives for their role in this scheme, 3 of whom have pleaded guilty and 1 of whom is awaiting trial here in the United States. We continue to investigate the case and anticipate additional law enforcement actions in the coming months.

The former Indonesian Parliament member was charged in Indonesia with accepting bribes, was found guilty of those charges, and was sentenced by an Indonesian court to serve three years in prison.

Together, these coordinated global actions sent a powerful message – countries all over the world are now engaged in the fight against foreign bribery and together, we can and will hold to account individuals and companies who engage in corruption, regardless of where they operate or reside.

The increase in international collaboration is not only enhancing our own FCPA enforcement efforts but it is also resulting in anti-corruption enforcement actions by other countries. A good example of this were the coordinated cases brought in the United States and the Colombia against individuals involved in bribing a Colombian official for an oil services contract.

Former executives of PetroTiger, a British Virgin Islands oil and gas company with operations in Colombia and offices in New Jersey, and others engaged in a scheme to pay bribes to a government official in Colombia, in exchange for the official's assistance in securing approval for an oil services contract worth roughly \$39 million.

We charged PetroTiger's two former CEOs, and former general counsel in the United States for their involvement in the scheme. To date, two of those individuals have pleaded guilty and one is scheduled to stand trial in New Jersey next year.

The Colombian authorities charged a PetroTiger employee in Colombia for his involvement in the scheme and Colombian authorities are continuing to actively investigate other members of the corrupt scheme. These successes were made possible by the cooperation among nations, which included not only Colombia and the United States, but also the Republic of Panama and the Republic of the Philippines.

I am pleased to say that these are just two examples of successful international cooperation. There are many other examples, and many more are in the pipeline. Continued international collaboration is absolutely critical if we are going to have a meaningful impact on corruption across the globe and we are committed to maintaining – and enhancing – our working relationships with our foreign partners.

By enhancing our coordination with our overseas counterparts, continually improving our already successful methods of investigating and prosecuting FCPA cases, and increasing our efforts to prosecute corrupt officials and recover their ill-gotten gains, we are now, more than ever, making a tangible difference in the fight against foreign bribery.

When I last worked at the department and even over the 10 years that I was in private practice, it seemed that many FCPA investigations were initiated by self-disclosures. While we of course still welcome self-disclosure, today we are far from reliant on it. Indeed, Marubeni and Direct Access Partners were both situations in which the companies did not self-report. Instead, we developed the cases on our own.

And in a world of whistleblowers and international cooperation, I expect that will be the case more often than not going forward. That said, we still encourage and reward self-disclosure and cooperation.

When you detect significant potential criminal conduct at your company, or a company that has retained you, I encourage you to disclose it to the Justice Department – and to do so in a timely manner. As I am sure you all know, the department's Principles of Federal Prosecution of Business Organizations provides that prosecutors should consider "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents" in deciding how to proceed in a corporate investigation.

So, in addition to promptly disclosing the conduct to us, I also encourage you to conduct a thorough internal investigation and to share with us the facts you uncover in that investigation. We do not expect you to boil the ocean in conducting your investigation but in order to receive full credit for cooperation, we do expect you to conduct a thorough, appropriately tailored investigation of the misconduct.

And we expect you to provide us useful facts in a timely manner. And that includes, importantly, facts about the individuals responsible for the misconduct, no matter how high their rank may be. Petro-Tiger is a fine example of the kind of cooperation we expect. The company self-reported and fully disclosed the relevant facts to us, even though those facts implicated two CEOs and a top in-house counsel. Petro-Tiger itself has not been charged.

The sooner you disclose the conduct to us, the more avenues we have to investigate culpable individuals. And, the more open you are with us about the facts you learned about that conduct during your investigation, the more credit you will receive for cooperation.

But, if you delay notifying us about an executive's conduct or attempt to whitewash the facts about an individual's involvement, you risk receiving any credit for your "cooperation."

This does not mean that we expect you to use law-enforcement style techniques to investigate your employees. To the contrary, it simply means that when you do an internal investigation, and you choose to cooperate with us, you should understand that we will expect to hear not just what happened, but who did what, when, and where.

We also expect that a truly cooperating company will provide relevant documents in a timely fashion, even if those documents are located overseas. We recognize that some countries' laws pose real challenges to data access and transfer of information, but we also know that many do not.

The Criminal Division investigates and prosecutes a large volume of international cases and through these cases, we have developed an understanding of these laws. We will not give full cooperation credit to companies that hide behind foreign data privacy laws instead of providing overseas documents when they can. Foreign data privacy laws exist to protect individual privacy, not to shield companies that purport to be cooperating in criminal investigations.

Put simply, cooperation – and the quality and timeliness of that cooperation – matter. This is a well-established principle that we have applied in criminal cases across the spectrum – from violent and organized crime cases to corporate fraud cases – for decades.

If a company works with us, it not only helps the Department, but it helps itself. Petro-Tiger is a fine example. But if a company chooses not to cooperate, or it cooperates too little and too late, those choices also have consequences. If you need an example of that, you need look no further than our resolutions with Marubeni and, in another context, BNPP.

Fighting corruption is not a choice we have made. It is, increasingly, a global imperative. Given the critical nature of this mission, we are bringing more resources to bear than ever before – and we will continue doing so. We have achieved significant successes using our traditional FCPA enforcement tools. We are building on those successes and continuing to evolve our enforcement efforts. Especially with the power of so many countries now standing by our side, we are determined to use every lawful means available to hold the perpetrators of corruption to account.

Thank you again for having me here, and enjoy the conference.

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Criminal Division