

Client Alert.

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SFO Obtains Convictions in Private Sector Oil and Gas Corruption Case

By Kevin Roberts and Duncan Grieve

The UK Serious Fraud Office (“SFO”) has recently obtained convictions against four individuals who received corrupt payments in return for the disclosure of confidential procurement information relating to the award of £66 million offshore oil and gas engineering contracts in Iran, Egypt, Russia, Singapore and Abu Dhabi. This case (“Operation Navigator”) and the sentences handed down highlight the increasing appetite of the UK authorities for high-profile prosecutions under anti-corruption legislation.

The four defendants were convicted on the basis that they had obtained (or made arrangements to obtain) corrupt payments in return for supplying targeted bidding companies with confidential information. The defendants had access to this information by virtue of their employment in companies acting as procurement agents under the various projects. The payments were concealed as “consultancy services” and shared among the conspirators.

Andrew Rybak was sentenced to five years imprisonment; Ronald Saunders, three years and six months; Philip Hammond, three years; and Barry Smith, twelve months, suspended for eighteen months. Rybak and Hammond were also disqualified from acting as company directors for ten years. Confiscation actions are underway against Rybak, Saunders and Hammond.

The defendants were convicted under the legislative regime as it stood prior to the UK Bribery Act 2010 (the “**Bribery Act**”), because the conduct in question occurred before 1 July 2011, when the Bribery Act came into force. Had the defendants’ conduct occurred after 1 July 2011, the bidder companies (whose employees made corrupt payments to the defendants in return for inside information) and the procurement companies could have faced prosecution in the UK. This prosecution would have been for the new corporate offence under the Bribery Act of failing to prevent bribery. If, as is likely, the companies were within the wide jurisdictional reach of the Bribery Act, the only defence available to them would have been that their procedures were adequate to prevent the relevant conduct.

Companies need to be aware that conviction for the new corporate offence of failing to prevent bribery may well result in extremely large fines. Lord Justice Thomas stated in his 2010 sentencing remarks following the conviction of Innospec Limited (for bribing Indonesian public officials) that fines for corruption offences should exceed tens of millions of pounds. Lord Thomas also advocated a consistent approach to financial penalties for corruption offences across jurisdictions with traditionally high U.S. FCPA fines as “the starting point.”

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