

Another Nigerian Bribery Scandal Settlement and the NL MVP Award

Tomorrow Ryan Braun will accept the National League MVP Award. He will accept this award for having a superlative 2012 season; which, as reported by MLB.com, included a “Batting Average of .332 with 33 home runs and 111 RBIs while leading the Brewers to the NL Central title.” He will also accept this MVP Award while “facing a 50-game suspension after testing positive for elevated levels of testosterone late last season.” Braun has appealed this suspension and the matter is currently in the appeals process.

The above came to mind as I read recent blog posts by the FCPA Professor and the FCPA Blog, that there is a new entry into the Nigerian-Bonney Island Bribery Scandal. That entrant is the Japanese trading company, Marubeni Corporation, which the Department of Justice announced it had settled an enforcement action with this past week. As reported by the FCPA Professor, Marubeni was retained by the joint venture, TSKJ, “to help it obtain and retain business in Nigeria, including by offering to pay and paying bribes to Nigerian government officials.”

Pursuant to the Deferred Prosecution Agreement, Marubeni agreed to pay a penalty of \$54.6 million. Marubeni was paid over \$51 million for its services by TSKJ so its overall penalty is assessed at slightly more than it received for services it rendered. As noted by the FCPA Professor, “ the advisory Sentencing Guidelines range for the charges at issue was \$54.6 million – \$109.2 million– a rare instance in which the fine amount is within the guidelines range.”

With this recent enforcement action we present the following updated Nigerian Bribery Scandal Box Score, new and improved with both Corporate and Individual Divisions:

SETTLEMENT BOX SCORE

<u>Entity or Person</u>	<u>Division</u>	<u>Fine, Penalty and Disgorgement of Profits</u>
Halliburton + KBR	Corporate	\$579 Million
Snamprogetti & ENI	Corporate	\$365 Million
Technip	Corporate	\$338 Million
JGC	Corporate	\$244 Million
Marubeni	Corporate	\$54.6 Million
Corporate SubTotal		\$1.58 Billion
Jeffery Tessler	Individual	\$147 Million
Wojciech Chodan	Individual	\$700,000
Jack Stanley	Individual	(not yet determined)
Individual SubTotal		\$147.7 Million
Total (to-date)		\$1.72 Billion

So for those of you keeping score at home, there have been fines, penalties and profit disgorgement of over **\$1.72 billion**. All of this for bribes paid on, by, or on behalf of TSKJ. This JV won four contracts, worth more than \$6 billion, from the Nigeria government between 1995 and 2004 to build LNG facilities on Bonny Island.

This total settlement figure does not include any potential costs going forward such as reduction of credit ratings, the payment of legal fees and any forensic accounting fees during the pendency of the DPA. The costs listed above do not include the total cost paid by Marubeni for its internal company investigation into this matter. However, based upon the reported fees to date paid by the other defendants, these investigation fees will surely be in the tens of millions of US\$. Additionally the above Box Score does not take into account any fines or penalties paid by the defendants to the Nigerian government.

So what is the difference between Marubeni and Ryan Braun? It appears he can accept his MVP Award. Stay tuned for the results of his appeal and whether he can keep his MVP Award. Or as the English might say, “watch this space.” Good Friday to all.

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