

# Red Notice

A Monthly Update on Global Investigations and Prosecutions



APRIL 2013

## INTRODUCTION

Welcome to April's edition of *Red Notice*, a publication of Akin Gump Strauss Hauer & Feld LLP. In this month's edition, a European aerospace group faces continuing fallout from corruption allegations in India; a U.S. pharma company reveals potential FCPA issues days after replacing its top executive; and one of the U.S.'s most recognizable brand names reportedly faces an investigation into its dealings in China and Europe. On the sanctions enforcement front, an Iranian national is charged with illegal export of industrial supplies; DOJ posts a summary of export enforcement cases; a U.S. medical services company settles allegations of ISTR violations; and OFAC allows further trade with Burma.

Thank you as always for reading *Red Notice*.

## ANTI-CORRUPTION DEVELOPMENTS

### Helicopter Bribery Case Leads to Corruption Charges in India

India's Central Bureau of Investigation (CBI) filed charges against 14 individuals and six companies related to allegations that AgustaWestland, Finmeccanica SpA's helicopter division, bribed officials with India's air force to win contracts worth EUR €560 million (USD \$730 million). Included among the individuals accused in the corruption scheme are S. P. Tyagi, former head of India's air force; Giuseppe Orsi, the now-former CEO of Finmeccanica; and former AgustaWestland head Bruno Spagnolini. The CBI alleges that AgustaWestland paid millions in commissions to middlemen, who in turn, paid "huge sums of money to some Indian nationals." The payments were allegedly disguised as engineering contracts with two India-based companies." Mr. Tyagi and Lawyers for Orsi, who was arrested in Italy earlier this year on bribery allegations, deny involvement in any wrongdoing. Italy's Finmeccanica, the UK's AgustaWestland, two India-based firms and two Africa-based firms are named in the charges. India signed the deal in February 2012 to procure 12 AgustaWestland helicopters to transport VIPs. Follow this developing [story](#) at the Hindustan Times.

### Pharma Company Reveals Bribery Probe on Heels of Executive Departures

New Jersey-based Optimer Pharmaceuticals announced last month that its President and CEO, Pedro Lichtinger, and its General Counsel and Chief Compliance Officer, Kurt Hartman, both agreed to step down from their posts at the company. The next day, Optimer's new President, CEO, and Chairman, Henry McKinnell, announced that the company is investigating whether transactions related to Optimer's Taiwanese subsidiary violate the FCPA. Last year, Optimer fired its Chief Financial Officer and Vice President, and removed co-founder Michael Chang from his role as chairman due to issues with a grant of shares in the company's Taiwanese subsidiary to Chang which were "potentially for the benefit of a third party." This month's announcement added that the grant of 1.5 million shares as well as a "potentially improper" USD \$300,000 payment may have violated the FCPA. McKinnell, who previously served as CEO of Pfizer, Inc., says that the company disclosed the probe in this matter to the U.S. Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) and is actively cooperating. Read [more](#) on the issues at Optimer at WSJ's *Corruption Currents*.

### Authorities Scrutinize Microsoft Dealings in China, Europe

Late last month, reports revealed that U.S. tech giant Microsoft may be under investigation by the DOJ and SEC stemming from allegations that its affiliates paid bribes to foreign government officials to win software contracts in China, Italy, and Romania. According to those reports, a former employee of Microsoft's Chinese affiliate told U.S. authorities

that an executive instructed him to pay kickbacks to government officials in exchange for the contracts, although sources also indicated that the former employee previously had a labor dispute with the company. In Italy, Microsoft allegedly used a consultant to give "lavish" gifts to government procurement officials. Similarly, the probe inquires into Microsoft's

a consultant to give favoring rights to government procurement officials. Similarly, the probe inquired into Ambassador's dealings with officials in Romania's Ministry of Communications. Read the [coverage](#) at *The Wall Street Journal*.

## EXPORT CONTROL AND SANCTIONS ENFORCEMENT

### Iranian National Charged with Illegal Export of Industrial Parts to Iran

A U.S. citizen and Iranian national, Mehdi Khorramshahgol, was charged March 7, 2013 with conspiring to illegally export tens of thousands of dollars worth of industrial equipment to Iranian entities engaged in the petrochemical industry. From 2008, Mr. Khorramshahgol actively worked to circumvent the U.S. trade sanctions against Iran, by obtaining materials in the United States, falsifying the shipping records with respect to the value of the goods and their destination, shipping the materials to the United Arab Emirates (UAE), and then altering the final destination to Iran once the materials had arrived in the UAE. If convicted, Mr. Khorramshahgol faces a maximum sentence of 20 years in jail. Read the Bureau of Industry and Security [release](#) and the U.S. Immigration and Customs Enforcement [release](#). Press coverage can be found [here](#).

### Department of Justice Posts Summary of U.S. Export Enforcement Cases et al.

In February 2013, the DOJ posted a review of major criminal cases involving export controls, economic embargoes, trade secret theft and economic espionage that were handled by the Department between January 2007 and February 14, 2013. The cases arose from investigations by the Bureau of Industry and Security of the Department of Commerce, Immigrations and Customs Enforcement of the Department of Homeland Security, and other law enforcement agencies. Recent cases that merited sanctions include the export of military-grade scopes to a former Soviet Socialist Republic and to Latin America, ammunition and military equipment to the Middle East and Asia, and trade secrets to China. Perpetrators received both prison sentences and fines into the hundreds of thousands of dollars. Read the DOJ [summary](#).

### U.S. Medical Services Company Settles Allegations of ISTR Violations

American Optisurgical, Inc., a supplier of ophthalmic products and services, reached an agreement with the Office of Foreign Assets Control (OFAC) to pay over USD \$400,000 to settle charges regarding alleged violations of the Iranian Transactions and Sanctions Regulations. The company was charged with exporting or attempting to export unlicensed medical goods to Iran (or for transshipment through a third party to Iran) between 2005 and 2010. American Optisurgical and its executives were deemed to have acted with willful and reckless conduct in its exports and attempted exports to Iran, actively seeking to conceal the final destination of its products. Despite the fact that American Optisurgical did not file a voluntary self-disclosure regarding these actions and failed to respond to two administrative subpoenas, OFAC determined that the alleged violations did not constitute an egregious case. Accordingly, OFAC set a base penalty more than twice the amount of the value of the 36 transactions, but allowed some modest mitigation to arrive at the settlement amount. Read the OFAC sanctions [announcement](#).

## SANCTIONS DEVELOPMENTS

### OFAC Allows Further Trade With Burma

In late February, OFAC issued a general license permitting additional U.S. economic activity in Burma (also known as Myanmar). Under General License No. 19, U.S. companies, banks and individuals may now open and maintain accounts and engage in other financial transactions with four of Burma's major financial institutions; concomitantly, these Burmese institutions now also have access to the U.S. financial system. The February 22, 2013 license furthers actions taken in July and November 2012 which eased U.S. economic sanctions against Burma. Read the Treasury [release](#) and national [coverage](#).

## CONTACT INFORMATION

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