

Akin Gump
STRAUSS HAUER & FELD LLP

Red Notice

A Monthly Update on Global Investigations and Prosecutions



SEPTEMBER 2015

Introduction

Welcome to the September 2015 edition of *Red Notice*, a publication of Akin Gump Strauss Hauer & Feld LLP.

This month on the anticorruption front, a Russian energy executive pleads guilty to a bribery scheme involving corrupt payments, a Texas man pleads guilty to bribery and money laundering charges arising out of activities while working in Afghanistan for a U.S. non-profit agency, the PetroTiger bribery saga concludes with monetary penalties and probation for defendants, a technology company proposes a million-plus settlement to end a U.S. Securities and Exchange Commission (SEC) anticorruption investigation, and the U.S. government announces an increased commitment to tackling international corruption.

In export control and sanctions enforcement news, an individual pleads guilty to U.S. Department of Justice (DOJ) export law violations, an armored vehicle manufacturer reaches a multimillion dollar settlement for Export Administration Regulations (EAR) violations, and the Bureau of Industry and Security (BIS) denies export privileges for several Middle Eastern entities.

Finally, in developments in export control and sanctions law, the U.S. government further eases Cuba-targeted sanctions, BIS adds 29 entities to its list of parties of concern and publishes a correction to Sudan-related export regulations, and the State Department issues nonproliferation sanctions on numerous foreign companies.

Thank you as always for reading *Red Notice*.

ANTICORRUPTION DEVELOPMENTS

Russian Nuclear Energy Official Pleads Guilty to Money Laundering Conspiracy Involving FCPA Violations

On August 31, 2015, Russian official and Maryland resident Vadim Mikerin, 56, pled guilty to conspiracy to commit money laundering for facilitating a \$2 million corruption scheme. As the director of the Pan American Department of JSC Technabexport (TENEX) and the president of TENAM Corporation, a Maryland-based subsidiary of TENEX and its official U.S. representative, Mr. Mikerin was in a position to influence the award of competitive contracts with his employer. TENEX, a Moscow-based, state-owned nuclear energy corporation, is a subsidiary of Russia's State Atomic Energy Corporation and acts as the sole supplier and exporter of Russian Federation uranium and uranium enrichment services to nuclear power companies worldwide.

According to the DOJ [press release](#), Mr. Mikerin admitted to conspiring with several others between 2004 and 2014, including two other U.S. residents, Daren Condrey of Maryland and Boris Rubizhevsky of New Jersey, to transmit approximately \$2.1 million from Maryland and other U.S. locations to offshore shell company bank accounts in Cyprus, Latvia and Switzerland. The conspirators used code words and falsified consulting agreements to hide the illicit payments, which were intended to influence Mr. Mikerin and secure improper business advantages in violation of the Foreign Corrupt Practices Act (FCPA). As part of his plea agreement, Mr. Mikerin agreed to the entry of a forfeiture money judgment of \$2.1 million, the sum of money moved during the scheme. Mr. Mikerin's sentencing is currently scheduled for December 8, 2015, in federal district court in Maryland.

Mr. Condrey pled guilty to conspiring to violate the FCPA and conspiring to commit wire fraud. Mr. Rubizhevsky pled guilty to

TRANSLATIONS

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WRITING AND SPEAKING ENGAGEMENTS

Akin Gump lawyers published a client alert discussing a new [DOJ policy](#) issued by Deputy Attorney General Sally Yates regarding the prosecution of individuals in cases involving criminal and civil corporate wrongdoing. To learn about the important changes, read the alert [here](#).

On October 1, partners [Chuck Connolly](#) and [Jonathan Poling](#) and senior counsel [Nicole Sprinzen](#) will present "As the World (Bank) Turns: Compliance and Enforcement Principles in Contracting" in our New York offices. For more info, contact NewYorkEvents@akingump.com.

On October 5, partners [Jim Benjamin](#) and [Robert Hotz](#) will participate in PLI's "White Collar Crime 2015: Prosecutors and Regulators Speak" in New York, NY. For more information, click [here](#).

On October 7, partner [Ed Rubinoff](#) will be speaking on a panel titled "Forecasting the Future of U.S. Business in Cuba—Mapping a Route for Entry, Assessing Anticipated Challenges and Evaluating Opportunities for Market Entrants," at the 2nd U.S.-Cuba Corporate Counsel Summit in New York, NY. For more information, please click [here](#).

On October 29, 2015, partner [Ed Rubinoff](#) will be speaking at the Houston Energy International Trade Compliance Forum (HEITC Forum), speaking on developments in sanctions and export matters.

If you would like to invite Akin Gump lawyers to speak at your company or to your group about anticorruption law, compliance, cybersecurity, enforcement and policy or other international investigation and compliance topics, please contact Mandy Warfield at mwarfield@akingump.com or

conspiracy to commit money laundering for acting as a consultant to Mr. Mikerin. These defendants are scheduled to be sentenced on November 2, 2015 and October 19, 2015, respectively.

For more information, see coverage from [Reuters](#) and [Business Insider](#).

Former Employee of US Contractor in Afghanistan Pleads Guilty to Bribery and Structuring Conspiracy

In January, Red Notice [reported](#) that former International Relief and Development Inc. (IRD) executive George Green had been indicted in a district court in Texas for soliciting and accepting bribes from Afghan contractors in exchange for awarding contracts funded by the U.S. government. In early September, Mr. Green pled guilty to those charges.

Mr. Green previously served as IRD's director of contracts, procurement and grants in connection with a cooperative agreement between IRD and the U.S. Agency for International Development to strengthen economic stabilization and promote long-term agricultural development in certain areas in Afghanistan.

According to the DOJ [press release](#), Mr. Green admitted to soliciting and receiving a \$51,000 bribe from a representative of an Afghan company that sought subcontracts from IRD. He further admitted that he attempted to conceal the bribe proceeds upon returning to his home in Texas by making deposits of less than \$10,000 each into his bank and credit card accounts in an effort to avoid triggering financial institutions' mandatory cash reporting requirements.

Mr. Green agreed to a stipulated sentence of 46 months in prison and a \$51,000 forfeiture order.

Court Hands Down Probation Sentences for Defendants in Oil and Gas Bribery Scheme

This month, three defendants and former executives of PetroTiger, Ltd., a British Virgin Island oil and gas company operating in Colombia, received sentences that will require payment of restitution and monetary penalties, but will allow the executives to avoid further jail time.

Now-disbarred attorney and former PetroTiger General Counsel Gregory Weisman was sentenced to two years of probation and \$30,000 in penalties, along with PetroTiger co-founder Knut Hammarskjold, who received a supervised release and a \$15,000 fine. Former CEO Joseph Sigelman, who was ordered to pay \$100,000 in fines, attempted to appeal his two-year probation sentence, claiming that the travel restrictions would severely hamper his abilities to pursue and develop new business opportunities abroad. Mr. Sigelman petitioned the court for leniency on requirements that he provide two weeks' notice to the U.S. Probation Office prior to traveling overseas, largely on the grounds that he had received a job offer to serve as senior advisor for a new company that he helped found in the years since he became embroiled in the PetroTiger bribery allegations. The court rejected Mr. Sigelman's request. The judge addressed the concerns in a letter to Mr. Sigelman's counsel and encouraged Mr. Sigelman to cultivate opportunities overseas within the bounds of the requirements, "perhaps through the use of technology."

Mr. Sigelman received the probation sentence through a plea deal, which he entered into shortly after the government presented Mr. Weisman's testimony. The testimony painted Mr. Sigelman as the mastermind of the scheme, and, during sentencing, prosecutors called Mr. Weisman's assistance "extraordinary." The sentences brought an end to years of investigation into allegations that the defendants conspired to split kickbacks while authorizing hundreds of thousands of dollars in bribe payments to a Colombian government official in order to secure a \$39 million contract from a state-controlled Colombian oil company.

To learn more about this story, see the [June 2015 Red Notice](#) and coverage from [Law360](#) [here](#) and [here](#) (subscription required).

Analogic Offers \$1.6 Million FCPA Settlement to the SEC

In mid-September, medical imaging and aviation security technology company Analogic Corporation offered to pay \$1.6 million to the SEC to settle an ongoing FCPA investigation. The company disclosed the \$1.6 million settlement offer in its [8-K filing](#).

Analogic previously revealed that it disclosed potential irregularities related to transactions by its Danish subsidiary, BK Medical ApS, to Danish and U.S. authorities, in 2011. The SEC and DOJ

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subsequently opened bribery investigations stemming from the transactions between BK Medical ApS and foreign distributors. Analogic fired several BK Medical ApS staffers and ended the distributor relationships at issue.

In its March 11, 2015, [10-Q filing](#), Analogic disclosed that the SEC and DOJ had “substantially” completed their investigations and that some type of monetary penalty would likely be forthcoming. In the filing earlier this month, Analogic explained that, although it “incurred a USD 1.6 million charge in connection with our settlement proposal,” there was no guarantee that the proposal settlement would be accepted.

The company also noted that it has not been in settlement discussions with the DOJ or the Danish government and does not know whether these entities will pursue additional sanctions or penalties. “There can be no assurance that we will enter into any settlement with the SEC, the DOJ or the Danish Government, and the cost of any settlements or other resolutions of these matters could materially exceed our accruals.”

For more information, see the [Wall Street Journal](#) and the [FCPA Blog](#).

US Government Renews Pledge to Combat Corruption with New Initiatives

In a pledge to intensify its efforts to combat corruption, the U.S. Department of State [announced](#) a number of new, multilateral government initiatives aimed at combating corruption around the world.

As part of this pledge, the U.S. government plans to double its contribution to the International Anticorruption Conference (IACC). The State Department noted that its increased funding of the IACC will provide greater support for civil society-based anticorruption initiatives and, in addition, announced that the Federal Bureau of Investigation will introduce formal Asset Recovery Teams at the next IACC. These specialized Asset Recovery Teams will target allegations of international corruption related to bribery and theft of government funds. DOS further highlighted its ongoing regional efforts in Asia and the Pacific Rim, particularly through education of justice-sector professionals in Indonesia, improvement of available anticorruption tools in the Philippines and partnership with the Asia-Pacific Economic Cooperation. As part of its renewed commitment, the State Department also will focus on international wildlife and timber trafficking as areas in which corruption is prevalent but under-addressed.

EXPORT CONTROL AND SANCTIONS ENFORCEMENT

US-Russian Dual National Pleads Guilty to Charges of Exporting Sensitive Technology to Russia

Earlier this month, Alexander Fishenko, a dual national of the United States and Russia and founder of Houston-based Arc Electronics Inc. (“Arc”), pled guilty to DOJ criminal charges alleging that he engaged in the export from the United States to Russia of advanced microelectronics subject to U.S. export control laws without obtaining the necessary export authorizations. The indictment alleged that between 2008 and 2012, Fishenko was one of 11 individuals who engaged in a Russian military procurement network that exported microelectronics that can be used in radar, surveillance systems and weapons guidance systems—all areas where exports are strictly controlled under the International Emergency Economic Powers Act and the Arms Export Control Act. The government alleged that Fishenko evaded detection by falsifying export documents submitted to the U.S. Department of Commerce and end-user information provided to U.S. suppliers and by representing to suppliers that Arc was a manufacturer of electronic equipment, when, in fact, Arc exclusively operated as an exporter to Russia. Fishenko faces up to 20 years in prison for each violation of the U.S. export laws, up to 20 years in prison for money laundering and obstruction of justice, and up to 10 years in prison for acting as an agent of the Russian government.

For additional information, see the DOJ [press release](#) and coverage by [CNN](#).

BIS Imposes \$3.5 Million Penalty on South Carolina Company for Violations of US Export Controls

On September 2, 2015, BIS announced a settlement of an enforcement action in which it imposed a \$3.5 million penalty on

Streit USA of South Carolina, company affiliates in the Middle East and two corporate officers for alleged violations of the EAR. Specifically, BIS charged that, between March 2008 and November 2009, Streit completed nine sales of vehicles retrofitted with ballistic steel and bulletproof glass to end users in the United Arab Emirates (U.A.E.), Venezuela, Afghanistan, Iraq, Nigeria, the Philippines and Singapore. Such vehicles are regulated under the BIS-enforced EAR. BIS determined that Streit "transferred, sold, and/or re-exported" the controlled vehicles without obtaining the required export licenses. Guerman Goutorov, the chairman and CEO of Streit Group (the parent company of Streit), was individually charged for aiding and abetting the unlicensed transfers. Additionally, Eric Carlson, president of Streit, was individually charged for providing a false statement to the U.S. government regarding his role in a pending export license application.

Under the terms of the settlement, all of the parties are now subject to a three-year suspended denial order. In addition, the corporate entities must conduct audits over the next three years. BIS agreed to suspend \$1.5 million of the fine as part of the settlement. In a statement concerning the settlement, BIS emphasized the responsibility that corporate officers have in ensuring that exports of controlled items are properly licensed and the importance of providing full and accurate information to BIS.

For additional information, see the BIS [press release](#) and coverage in [American Shipper](#).

BIS Imposes Denials of Export Privileges on Multiple Parties for Exporting Web Monitoring and Controlling Equipment to Syria

On September 21, 2015, BIS announced that it had imposed denials of export privileges against two non-U.S. persons and their companies, Engineering Construction and Contracting (ECC) and Advanced Technology Solutions (ATS), both located in Damascus, Syria, as well as iT-Wave FZCO, located in Dubai, U.A.E. BIS charged that, beginning in 2010, the three companies and the two individuals engaged in a conspiracy to illegally export and re-export web monitoring and controlling equipment and software to Syria and to the state-run Syrian Telecommunications Establishment (STE). Such items are controlled under the EAR for national security and antiterrorism reasons, as well as for their use as encryption items. BIS alleged that the officers of the companies provided false destination and end-user information to supply STE with U.S.-origin computer equipment subject to export restrictions. The action resulted in a seven-year denial for ECC and ATS, a four-year denial for iT-Wave and a \$7 million penalty, with all but \$250,000 suspended.

For additional information, see the BIS [press release](#).

EXPORT CONTROL AND SANCTIONS DEVELOPMENTS

Administration Further Eases U.S. Sanctions Against Cuba

On September 21, 2015, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and BIS implemented amendments to the Cuban Assets Control Regulations (CACR) and EAR to ease U.S. sanctions on Cuba in an effort to advance the Obama administration's new policy of engagement with Cuba initiated in December of last year. The amendments provide relief from certain travel and financial restrictions, permit persons subject to U.S. jurisdiction to provide goods and services to Cuban nationals located outside of Cuba, expand telecommunications and Internet-based services in Cuba, and permit U.S. persons engaged in U.S.-authorized activities in certain areas to maintain a physical presence in Cuba. Telecommunications providers are expressly authorized by the amendments to establish a business presence in Cuba by establishing "subsidiaries, branches, offices, joint ventures, franchises, and agency or other business relationships with any Cuban individual or entity to provide authorized telecommunications and Internet-based services."

This coordinated action builds upon and consolidates previous changes easing U.S. sanctions on Cuba under the CACR and EAR implemented in January 2015. The latest amendments signal the continued commitment of the Obama administration to its reversal of long-standing U.S. policy in favor of a policy of engagement with Cuba. These amendments will also create opportunities for U.S. companies in a range of sectors to conduct business with Cuba that, until recently, have been blocked by U.S. sanctions for more than

half a century. Despite these changes, several features of the long-standing U.S. embargo on Cuba continue to restrict other kinds of trade, transactions and travel between the United States and Cuba absent general or specific authorization by OFAC. Additionally, it remains to be seen how and when Cuba will permit U.S. companies to enter the Cuban market to engage in the growing areas of commercial activity authorized by changes in U.S. law.

For additional information, see the amended regulations in the *Federal Register* [here](#) and [here](#) and discussion in the Akin Gump [Client Alert](#).

BIS Adds 29 Parties to Entity List

Earlier this month, BIS issued a final rule amending the EAR by adding 29 parties to its Entity List, a restricted-party list identifying foreign persons that engage in activities contrary to U.S. national security and/or foreign policy interests. This latest action was taken in accordance with Executive Orders 13660, 13661, 13662 and 13685 to “ensure the efficacy of existing sanctions on [Russia] for violating international law and fueling the conflict in Ukraine.”

For 14 of the 29 entities added to the Entity List, BIS imposed a license requirement for all items subject to the EAR. Accordingly, all exports, re-exports and transfers (in-country) of all EAR items to these companies require a license from BIS, and BIS will also consider such license requests with a presumption of denial. This BIS action conforms the Entity List to OFAC’s Specially Designated Nationals list under Executive Orders 13660, 13661 and 13685.

The other 15 entities added to the Entity List are identified as subsidiaries of the Russian company Rosneft, which is already subject to BIS export restrictions and OFAC sectoral sanctions. For these 15 entities, the BIS listing imposes a license requirement for exports or re-exports of U.S.-origin items subject to the EAR for uses that correspond with activities barred under U.S. sectoral sanctions in accordance with Executive Order 13662. Specifically, BIS now imposes a license requirement for the export, re-export or transfer (in-country) to these companies of all items subject to the EAR when the exporter knows, or is unable to determine, whether the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian Deepwater, Arctic offshore locations or shale formations in Russia.

For more information, see the BIS [Final Rule](#) in the *Federal Register* and coverage in the [AG Trade Law Blog](#).

BIS Issues a Correction on Export Restrictions of Civil Telecommunication Items to Sudan

Early this month, BIS issued a correction to modifications it made to the EAR in February 2015. Among other changes, the February amendments extended the Consumer Communications Devices license exception to apply to the temporary export and re-export to Sudan of certain communication devices (such as cell phones, Wi-Fi enabled personal computers, global positioning systems and related software) “sold or donated to” humanitarian nongovernmental organizations (NGOs) in order to foster communications to, from and among the people of Sudan. The February 2015 modifications to Sudan-related license exceptions omitted language that had previously permitted employees of NGOs in Sudan to License Exception Temporary imports, exports, reexports, and transfers (in-country) (TMP) for the export and re-export of devices provided by their employers. The unintended effect was that employees of humanitarian NGOs in Sudan began applying to BIS for licenses for employer-provided devices that had previously been subject to the TMP exception as “tools of trade,” but that were not “sold or donated” to the employees. The new final rule amends the EAR to clarify that the temporary export and re-export of employer-owned consumer communication devices and related software are covered under the license exceptions.

For additional information, see the correction in the *Federal Register* [notice](#).

State Department Imposes Nonproliferation Sanctions on Foreign Defense Companies, Including a Ban on U.S. Government Procurement

Earlier this month, the State Department published a notice in the *Federal Register* identifying 23 companies based in China, Iran, North Korea, Russia, Sudan, Syria, Turkey and the U.A.E. that are now subject to sanctions under Section 3 of the Iran, North Korea and Syria Nonproliferation Act (the “Act”). The Act is designed to penalize entities and individuals who deal in goods, services or technology with Iran, North Korea or Syria that are subject to multilateral missile

and weapons of mass destruction export control trade restrictions.

Based on this listing, which has a two-year duration subject to extension, U.S. government agencies are generally barred from (1) procuring or entering into any contract for the procurement of any goods, technology or services from listed entities; (2) providing assistance to, or permitting participation of, listed entities in projects subject to any U.S. government assistance program; (3) conducting sales, or authorizing sales, to the listed parties of items subject the U.S. Munitions List, as well as conducting sales of defense articles, defense services, or design and construction services under the Arms Export Control Act; and (4) approving or providing export licenses in connection with the listed entities for items subject to control under the U.S. Export Administration Act and the EAR.

For more information, see the [Notice](#) issued by the State Department in the *Federal Register* and coverage in the [AG Trade Law Blog](#).

CONTACT INFORMATION

For more information about the stories highlighted in *Red Notice*, please contact:

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Contact information for attorneys in related practices can be found [here](#).

The "Anticorruption Developments" section of *Red Notice* is edited by [Courtney Cardin](#) and [Jonathan Vukicevich](#). The "Export Control and Sanctions Developments and Enforcement" sections are edited by [Annie Schlappizzi](#).

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