

# Example of siemens case and the foreign corrupt practices act term paper

[Business](#), [Company](#)



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## **Introduction**

Siemens, the international German engineering and electronics manufacturer, agreed to pay \$ 800 million in December 2008 after admitting violations to the provisions of the Foreign Corrupt Practices Act. This action was preceded by an investigation which was focused on allegations of bribery of about 1. 3 trillion Euros between 2002 and 2006. This paper investigates the allegations that were levelled against the company, the specific provisions of the Foreign Corrupt practices act and those who were affected by the scandal.

## **Allegations and relevant statutes**

According to the filings made in a federal court against Siemens, the company was involved in a systematic practice of paying bribes to officials of foreign governments so as to obtain business. In the court documents, it is alleged that in ten countries, the company paid bribes to officials with the intention of improving their chances of getting contracts from these governments (Meagher, 2008). Specifically, the company was accused of paying bribes so as to obtain contracts for transit systems in Venezuela, high

voltage electricity transmission lines in China, the construction of power plants in the Republic of Israel, national identity cards production in Argentina, road traffic control systems in Russia, the production and delivery of medical equipment in Vietnam, oil refineries in Mexico and a variety of related projects in Bangladesh (Meagher, 2008). It was also alleged that through the United Nations Oil for Food Programme that was run in Iraq, the company was involved in the inappropriate practice of paying bribes to officials with the intention of obtaining contracts for the supply of power stations in that country (Meagher, 2008).

According to the provisions of the Foreign Corruption Practices Act, Section 30A of the Securities & Exchange Act of 1934: Prohibited foreign trade practices by issuers, it is unlawful for a company to make payments with the intent of influencing any act or decision of a foreign official or influencing such an official to act in violation of the law. The Act also provides that it is unlawful to influence the decision of a person to act in his official capacity in violation of a lawful act in obtaining or retaining or directing a business (FCPA).

Another allegation against the company was the falsification of its books of accounts with the intention of concealing the bribes that the company paid out. The company is accused of using a variety of creative methods to achieve this. This includes but not limited to the use of off book accounts, shady consulting contracts and the use of intercompany accounts. The company is also alleged to have employed the use of false invoices to cover these corruption payments. Another method of falsifying documents that the company was alleged to have used was the maintaining of cash sources

where employees had access to funds which they could use for bribery with the least documentation. In the documents authorising the transfer of such funds, it is claimed that there was the use of removable post it notes with affixed signatures, which when removed were used to ensure that any audit trail for those funds withdrawn was lost (Meagher, 2008).

Through falsification of documents, Siemens was in contravention of the Foreign Corrupt Practices Act section b subsection B which requires companies to have in place and maintain a system of internal accounting controls sufficient to provide assurances that transactions are conducted with the management's general or specific authorization (FPCA).

The company's executives, though not direct participants to the bribery scheme, they were accused of being negligent in their supervisory role. It is alleged that it was with their consent that a culture of bribery was created in Siemens. The top executives of the company failed to develop and implement meaningful internal control systems and programs of compliance. There was no policy in the company that enforced the use of internal control measures and the company ignored what would be considered obvious signs that bribery was widespread in the company. The company also failed to implement mandatory FCPA compliance training (Meagher, 2008). This was in contravention of the Foreign Corrupt Practices Act of 2004, section b, subsection 5 which states that " No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2)". Since it was evident that the executives were aware of corruption that was so widespread in the company, this was a direct violation of the act and the

executives of the company were wrong under this act (FCPA).

These allegations were directed generally towards the company, but specifically towards the executives of Siemens who bore the responsibility of enforcing the provisions of the Foreign Corrupt Practices Act. It was within their responsibility to ensure that the company not only set up and implemented a secure internal control system, but also to ensure that such a system is enforced. On this account, the company failed since they failed to have such a system and allowed dubious cash outflow systems to operate in the company. Investigations revealed that the company was indeed guilty and fined it \$ 800 million.

## References

Foreign Corrupt Practices Act

Meagher, J. (23 December 2008) Siemens Pays Record \$800 Million to Settle Foreign Corrupt Practices Act Charges, K&L GATES, retrieved from <http://www.klgates.com/siemens-pays-record-800-million-to-settle-foreign-corrupt-practices-act-charges-12-23-2008/>