

## CLIENT ALERT

### DOJ Makes Good On Promise To Prosecute Individuals For FCPA Violations

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On July 23, the Department of Justice announced the [indictment of Jason Edward Steph](#), a former executive of Willbros International Inc. (WII), a subsidiary of Houston-based Willbros Group Inc., on charges of conspiring to violate the Foreign Corrupt Practices Act and money laundering.

Steph, a U.S. citizen residing in Kazakhstan, is charged with conspiring with Nigerian “consultants” and other Nigeria-based employees of a German engineering and construction company to pay over \$6 million in bribes to obtain a gas pipeline construction project on Willbros’ behalf. The payments allegedly were directed to a joint-venture majority-owned and controlled by Nigeria’s state-owned oil company, Nigerian officials, and a Nigerian political party. Steph is also charged with money laundering in connection with certain international transactions.

In addition to highlighting the risks involved in use of “consultants” in seeking business with state-owned or controlled entities, this most recent indictment underscores DOJ’s continued focus on prosecuting individuals for FCPA violations in addition to the companies for which they work. For example, on June 29, 2007, a former SSI International executive pleaded guilty to conspiring to violate the FCPA (and consented to an SEC judgment), conduct for which SSI Korea has already been sentenced to pay a \$7.5 million criminal fine. On June 22, 2007, DOJ unsealed the indictment of Lee Winston Smith, a former executive of Pacific Consolidated Industries (PCI), for schemes to bribe a “project manager” in connection with contracts with the UK Ministry of Defence. According to the DOJ press release new owners of PCI uncovered the scheme and reported it to DOJ. High-level executives from such other companies as Alcatel, Invision, ABB and Titan have recently been or are currently being prosecuted as well..

But not everything is going DOJ’s way. On June 21, 2007, in the long running prosecution of three individuals for an alleged scheme to bribe Azerbaijan officials in connection with the privatization of its State Oil company, Judge Scheindlin dismissed all the charges against the two U.S. defendants, holding that DOJ’s application to toll the statute of limitations under 18 U.S.C. § 3292 had come too late. *United States v. Kozeny*, 2007 WL 1821703 (S.D.N.Y. June 21, 2007). On reconsideration, the court reinstated three conspiracy counts each of which alleged at least one affirmative act within five years of the § 3292 application. The United States has appealed.

The Department’s latest announcement, and these other prosecutions of individuals, serve as further stark reminders that FCPA prosecution of individuals, as well as corporations, remains one of its highest priorities. The impact on a company’s business of FCPA prosecution, or even mere allegations or investigations, cannot be underestimated. Companies must set the tone at the top by paying close attention to the activities of their subsidiaries abroad, implementing comprehensive internal controls and due diligence procedures, and maintaining an effective compliance and training program to steer clear of the many risks of FCPA prosecution.

To view the DOJ's press release, please click below:

[Former Executive of Willbros Group Inc. Indicted on Foreign Corrupt Practices Act Charges](#)

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**Alan W. H. Gourley**

Partner – Washington, D.C.  
Phone: +1 202.624.2561  
Email: [agourley@crowell.com](mailto:agourley@crowell.com)

**Thomas A. Hanusik**

Partner – Washington, D.C.  
Phone: +1 202.624.2530  
Email: [thanusik@crowell.com](mailto:thanusik@crowell.com)

**Aryeh S. Portnoy**

Partner – Washington, D.C.  
Phone: +1 202.624.2806  
Email: [aportnoy@crowell.com](mailto:aportnoy@crowell.com)

**John L. Murino**

Partner – Washington, D.C.  
Phone: +1 202.624.2663  
Email: [jmurino@crowell.com](mailto:jmurino@crowell.com)