

CLIENT ALERT

Fifth Circuit Reaffirms Breadth Of FCPA's Anti-Bribery Provisions

February 4, 2004

On February 4, 2004, the Fifth Circuit released its long awaited decision in *United States v. Kay*, holding that corrupt payments to foreign government officials “to obtain or retain business” was broad enough to reach payments by American Rice, Inc., to Haitian officials to understate customs duties and sales taxes on its rice imports. The Fifth Circuit also concluded that, despite the government's failure to identify the “business” that was assisted or how it was assisted, the indictment was nonetheless sufficient as a matter of law, but left to the district court to consider -- in response to a motion for particulars on the “intent” element -- whether to compel the government to identify specific facts to show just what business the bribe sought to obtain or retain and how the bribe was meant to accomplish this assistance.

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

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