

United States v. Gordon J. Coburn & Steven Schwartz (D.N.J. 2019)

Nature of the Business.

Gordon J. Coburn, a resident of Colorado, was the former president of Cognizant, a global information technology services provider, headquartered in Teaneck, New Jersey. Steven E. Schwartz, a resident of Connecticut, was the former Chief Legal Officer for Cognizant.

Influence to be Obtained.

According to the indictment, Coburn and Schwartz paid bribes to unnamed government officials in India to secure a planning permit necessary for the construction of an office campus that would support approximately 17,000 Cognizant employees. The defendants, senior officials at Cognizant, allegedly threatened to withhold payments to the construction company until it had obtained all necessary permits. According to the DOJ, the defendants further pressured the construction company to pay the bribes by offering reimbursements for those costs.

The defendants allegedly authorized the payment of approximately \$2 million to secure the permit. To conceal the bribes, Coburn, Schwartz, and several unnamed co-conspirators allegedly agreed to pay its construction company for what was to be deemed a cost overrun of the campus construction in invoices and change orders issued to Cognizant. To further disguise payment, a member of Cognizant's real estate group allegedly altered certain descriptions of work in the invoice, ensuring the construction company was paid the bribe without documenting the true purpose of the reimbursement.

Enforcement.

On February 14, 2019, the DOJ filed a twelve-count indictment against Coburn and Schwartz, alleging one count of conspiracy to violate the FCPA, three counts of violating the FCPA, seven counts regarding false books and records, and one count of violating internal controls. The case is pending.

The three FCPA counts are based on three separate emails from Coburn to Schwartz and other co-conspirators between April 2014 and March 2015. The DOJ alleges that the contents of the emails were: (1) a request for a phone call with co-conspirators, (2) instructions to a co-conspirator to continue to withhold certain payments to the construction company, and (3) an authorization by Cognizant to pay the construction company's change order requests. The DOJ claimed each email operated as a separate unit of prosecution and the court agreed. On February 14, 2020, the court denied the defendants' motion to dismiss the FCPA counts on the basis of multiplicity.

Key Facts

Citation. *United States v. Coburn & Schwartz*, No. 1:19-cr-120 (KM) (D.N.J. 2019).

Date Filed. February 14, 2019.

Country. India.

Date of Conduct. 2014 – 2016.

Amount of the Value. Approximately \$2 million.

Amount of Business Related to the Payment. Not stated.

Intermediary. An Indian construction company.

Foreign Official. Unnamed Indian government officials.

FCPA Statutory Provision. Anti-Bribery; Books-and-Records; Internal Controls; Conspiracy (Anti-Bribery) (Coburn & Schwartz).

Other Statutory Provision. None.

Disposition. Pending.

Defendant Jurisdictional Basis. Agent of Issuer (Coburn & Schwartz).

Defendant's Citizenship. United States.

Total Sanction. Pending.

Related Enforcement Actions. *In re Cognizant Tech. Solutions Corp.*; *SEC v. Coburn & Schwartz*.