

In the Matter of Polycom, Inc. (2018)

Nature of the Business.

Polycom, Inc., a Delaware corporation headquartered in California, sells communications products and services. Before Polycom was acquired by a private equity firm in 2016, the company maintained a class of securities registered with the SEC pursuant to Section 12(b) of the Securities Exchange Act. In 2018, Polycom was acquired by Plantronics, Inc., a U.S.-based manufacturer of communications headsets, as a wholly-owned subsidiary. Plantronics has a class of stock registered with the SEC pursuant to Section 12(b) of the Exchange Act.

Polycom Communications Solutions (“Polycom China”) was a wholly owned subsidiary of Polycom based in China that sold Polycom’s communications products and services to users in China through distributors and resellers.

Influence to be Obtained.

According to the SEC, from 2006 to 2014, Polycom’s Vice President of China engaged in a scheme to obtain business from customers in the public sector by paying bribes to Chinese government officials through distributors in China.

Before paying a bribe, distributors requested a discount on communications products from Polycom China. The SEC alleges that senior managers at Polycom China provided the discount even though they knew the discount was intended to cover the cost of bribes. After receiving the discount from Polycom China, distributors made cash payments to government officials who had the ability to influence the purchase decisions of government agencies and state-owned companies.

The SEC further alleges that under the direction of Polycom’s Vice President of China, senior managers created a sales management system to record the bribe payments made by distributors. Sales personnel at Polycom China were instructed to enter the payments into the secret management system instead of Polycom’s approved customer relations management system. Senior managers then recorded the deals with distributors in the approved management system by characterizing the bribe payments as legitimate discounts given to prevent customers from buying from a competing communications provider.

Polycom China personnel were also instructed to use non-company email addresses when communicating with the distributors to conceal the deals from Polycom personnel outside of China.

Enforcement.

On December 26, 2018, the SEC settled its enforcement action against Polycom for violations of the FCPA’s books-and-records and internal controls provisions. According to the cease-and-desist order, Polycom agreed to pay \$10,672,926 in disgorgement, \$1,833,410 in prejudgment interest, and a \$3.8 million civil penalty—totaling \$16,306,336 in sanctions.

On December 20, 2018, the DOJ issued a declination letter to Polycom stating that it would decline prosecution under the FCPA Corporate Enforcement Policy. The DOJ recognized Polycom’s identification of the misconduct, voluntary disclosure, internal investigation, cooperation with the DOJ’s investigation, and remediation, including improving the compliance program and disciplining employees. Pursuant to the declination letter, Polycom agreed to pay \$30,978,000 in disgorgement, with the DOJ crediting the disgorgement paid to the SEC.

Key Facts

Citation. *In the Matter of Polycom*, Admin. Proc. File No. 3-18964 (Dec. 26, 2018).

Date Filed. December 26, 2018.

Country. China.

Date of Conduct. 2006 – 2014.

Amount of the Value. Not Stated.

Amount of Business Related to the Payment. Approximately \$10.7 million in profits.

Intermediary. Subsidiary.

Foreign Official. Unnamed government officials in China.

FCPA Statutory Provision. Books-and-Records; Internal Controls.

Other Statutory Provision. None.

Disposition. Cease-and-Desist Order.

Defendant Jurisdictional Basis. Issuer.

Defendant’s Citizenship. United States.

Total Sanction. \$16,306,336.

Compliance Monitor/Reporting Requirements. None.

Related Enforcement Actions. *In re Polycom, Inc.*

Total Combined Sanction. \$36,611,410.