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| United States v. Olympus Latin America, Inc. (D.N.J. 2016) |
| Nature of the Business. Olympus Latin America (“OLA”) is a Delaware corporation headquartered in Miami, Florida. OLA is a majority owned subsidiary of Olympus Corporation of the Americas, a company headquartered in Pennsylvania which engages in the business distributing medical imaging, photographic, and surgical equipment in the United States, Canada, Central America, and South America.Influence to be Obtained. Between 2006 and 2011, senior management at OLA allegedly developed and implemented a plan to increase medical equipment sales by providing cash, gifts, entertainment and travel to HCPs at various state-owned and private health care facilities. OLA allegedly delivered these improper benefits to HCPs by opening and directing side benefits to “training centers” and selecting certain HCPs, known as “Key Opinion Leaders,” to run and manage the training centers. HCPs who were best able to influence purchasing decisions at state-owned medical facilities or who sat on public tender boards were allegedly chosen as Key Opinion Leaders.As compensation for their management of OLA’s training centers in South America, the DOJ claims that Key Opinion Leaders were provided an annual salary of $65,000 per year, given a 50% discount on Olympus equipment and provided a $130,000 budget for “VIP Management.” In addition, OLA is accused of establishing a “Miles Program” which provided Key Opinion Leaders with free travel for personal, non-business reasons. According to the DOJ, Key Opinion Leaders were provided between 5,000 and 30,000 “miles”—the equivalent of $5,000 to $30,000—in compensation under the Miles Program.Throughout the relevant period, the DOJ claims that senior management and certain sales representatives from OLA made efforts to hide the improper benefits to HCPs from government agencies and hospital authorities in the United States and across South America. This was allegedly accomplished by omitting any reference to payments, gifts, travel or personal equipment discounts from relevant contact language or entering into side agreements with the HCP.Enforcement. On March 1, 2016, the DOJ announced that it had entered into a deferred prosecution agreement with OLA in which OLA agreed to pay a criminal penalty of $22.8 million to settle one count of conspiracy to violate the FCPA and one substantive count of violating the FCPA’s anti-bribery provision. In addition to the FCPA violations, OLA’s corporate parent, Olympus Corporation of the Americas, entered into a separate three-year deferred prosecution agreement to settle violations of the Anti-Kickback Statute, agreeing to pay a $312.4 million criminal penalty and $310.8 million to settle civil claims under the federal and various state False Claims Acts. | Key Facts**Citation.** *United States. v. Olympus Latin America, Inc.,* No. 2:16-mj-03525 (D.N.J. 2016).**Date Filed.** April 18, 2016.**Country.** Argentina; Bolivia; Brazil; Chile; Colombia; Costa Rica; Mexico.**Date of Conduct.** 2006 – 2011.**Amount of the Value.** Approximately $3 million.**Amount of Business Related to the Payment.** Approximately $7.5 million.**Intermediary.** Agents; Third-Party Distributors.**Foreign Official.** Health care practitioners employed at government-owned and private health care facilities.**FCPA Statutory Provision.** Anti-Bribery; Conspiracy (Anti-Bribery).**Other Statutory Provision.** None.**Disposition.** Deferred Prosecution Agreement.**Defendant Jurisdictional Basis.** Domestic Concern.**Defendant’s Citizenship.** Japan.**Total Sanction.** $22,800,000.**Compliance Monitor/Reporting Requirements.** None.**Related Enforcement Actions.** None.**Total Combined Sanction.** Not Applicable. |