

BLOG POST

## Aiming For FCPA Compliance

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Small companies have it rough. Limited resources make local expansion difficult. International expansion is harder still. So small companies seeking recognition overseas need to be creative. Unfortunately, unbridled creativity is dangerous and often leads to government investigations, FCPA violations, and criminal fines. And don't think that smaller companies don't register on the DOJ's radar. It's not the size of the boat ... err ... company, but the motion in the ... well, you know what I mean.

*In re Smith & Wesson Holding Corporation* is a prime example. Wait a minute. What's that, you say? "Smith & Wesson is *not* a small company!" While the company is certainly a household name in the States, it's actually not very large. In fact, according to the company's website, as of May 31, 2013, it only had approximately 1,475 full-time employees.

But I digress. On July 28, 2014, Smith & Wesson resolved an SEC administrative action through a cease and desist order that charged the company with violations of the anti-bribery, books and records, and internal controls provisions of the Securities Exchange Act. According to the order, Smith & Wesson's sales staff engaged in an effort to attract new business overseas by offering, authorizing, or making illegal payments or providing gifts meant for government officials in Pakistan, Indonesia, and other foreign countries. For example, company officials authorized a third-party agent to provide more than \$11,000 worth of guns to Pakistani police officials — in addition to cash payments — in order to obtain a deal to sell firearms to the Pakistani police department. It's certainly a way to attract international business, but one that's going to land you in a whole lot of trouble.

As part of the resolution with the government, Smith & Wesson agreed to pony up a \$1.9 million civil penalty and about \$107,000 in disgorgement. This isn't the tens of millions of dollars we've come to expect from penalties stemming from FCPA violations, but it's still a pretty penny for smaller companies. What this means for smaller companies is that they are not too small to be the subject of a DOJ investigation. Accordingly, their compliance programs must take center stage within their broader risk management framework.

Bottom line: Business growth is never more important regulatory compliance. In other words, it's okay to set your sights on creative business development, just make sure that your efforts are pointed in the right direction.