

Switzerland / Individual Defendant X

Case ID:

ST-339

Case Cluster :

Switzerland / Individual Defendant X

Jurisdiction of Settlement:

Switzerland

Jurisdiction of Settlement / Enforcement Agency:

Office of the Attorney General

Jurisdiction of Foreign Public Official(s) :

Switzerland, Unspecified Jurisdictions

Year of Settlement:

2010

Month/Day of Settlement (or Notes):

12/02

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Criminal

Legal Form of Settlement:

Summary Punishment Order

Monetary Sanctions (Types):

Criminal Fine, Suspended Criminal Fine

Total Monetary Sanctions (US\$):

\$11,958.10

Criminal Fine/Penalty (US\$) :

\$11,958.10

Monetary Sanctions Returned / Ordered Returned (Explanation):

Unspecified

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1

Offenses - Alleged:

Bribery of Foreign Officials

Offenses - Settled:

Unknown

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the December 2011 OECD Phase 3 Report on Switzerland, "On 17 February 2010, the Tax Administration of the Canton of Geneva advised the cantonal Office of the Attorney-General of illegal payments that had been made by a director of several Geneva

hotels. Following this report, a case was opened by the Geneva Office of the Attorney-General. The investigation showed that between 2003 and 2007, X ? a Swiss national ? had paid intermediaries cash commissions totalling CHF 109 100 (approximately EUR 90 000) so that foreign diplomatic representations would choose to stay in his establishments. Examination of the accounting records of the companies operating the hotels showed in particular that CHF 48 000 had been paid in 2006-07 so that representatives of Office XY would stay in these establishments; that CHF 27 100 had been paid between 2003 and 2007 so that customers from consulate XY and permanent mission XY would stay there; and that CHF 34 000 had been paid so that customers connected with mission XY would stay there. The investigation determined that the payment of these commissions had enabled the hotels in question to generate turnover of CHF 1.5 million (or approximately EUR 1.2 million). When questioned by the Geneva law enforcement authorities, the defendant acknowledged having paid commissions to attract customers, while contending that the customers brought in by the commissions had not, in his opinion, been members of official representations. The prosecutor in the case deemed, however, that a review of the accounting documents in evidence clearly showed that the customers were in fact official representatives, that a 2009 letter clearly indicated that the accused habitually paid commissions to foreign officials and lastly, that it made little difference whether the intermediaries receiving the commissions did not work formally for the various foreign missions insofar as a purpose of the commissions was to attract diplomatic clientele. The Geneva law enforcement authorities also rejected the defendant's contention that the payment of commissions to foreign public officials was a recurring practice in the hotel industry. After taking account of the defendant's lack of a criminal record and his personal and economic circumstances, and considering that the deeds of which he was accused were not serious enough to take the accused to trial, X was sentenced by Summary punishment order to a suspended fine of CHF 49 500 (approximately EUR 41 000), three years' probation and a fine of CHF 12 000 (approximately EUR 10 000)." (Source: Organisation for Economic Co-Operation and Development, "Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Switzerland," December 2011, at 54 and citing as its source Summary Punishment Order of the Attorney-General of the Republic and Canton of Geneva, 2 December 2010.). The suspended fine has not been included in the monetary total for this entry.

Sources :

Organisation for Economic Co-Operation and Development, "Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Switzerland," December 2011, accessed at <http://www.oecd.org/dataoecd/59/53/49377354.pdf>, replace with:
<http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Switzerlandphase3reportEN.pdf>