

UTStarcom, Inc.

Case ID:

ST-372

Case Cluster :

UTStarcom, Inc.

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

China

Year of Settlement:

2009

Month/Day of Settlement (or Notes):

12/31

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Permanent Injunction

Monetary Sanctions (Types):

Civil Penalty

Total Monetary Sanctions (US\$):

\$1,500,000.00

Criminal Fine / Penalty (Explanation):

NA

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$1,500,000

Monetary Sanctions Returned / Ordered Returned (US\$):

\$0

Monetary Sanctions Returned / Ordered Returned (Explanation):

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.23

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 7, Art. 8

Offenses - Alleged:

Bribery of foreign officials, Falsification of books and records, Internal controls violations

Offenses - Settled:

No admission or denial of alleged offenses

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the June 2011 United States Report to the OECD, "On December 31, 2009, UTStarcom, Inc. (UTSI), a global telecommunications company that designs, manufactures, and sells network equipment and handsets, entered into a non-prosecution agreement with the Department of Justice regarding the improper provision of travel and other things of value to employees at state-owned telecommunications firms in the People's Republic of China, in violation of the FCPA. On the same date, the SEC filed a settled civil complaint against UTSI in relation to this conduct. As part of these agreements, UTSI acknowledged responsibility for the actions of its wholly-owned subsidiary, UTStarcom China Co. Ltd. (UTS-China), and its employees and agents, who arranged and paid for employees of Chinese state-owned telecommunications companies to travel to popular tourist destinations in the United States, including Hawaii, Las Vegas, and New York City. The trips were purportedly for individuals to participate in training at UTSI facilities. In fact, UTSI had no facilities in those locations and conducted no training. UTS-China then falsely recorded these trips as "training" expenses, while the true purpose for providing these trips was to obtain and retain lucrative telecommunications contracts. The civil complaint filed by the SEC also stated that UTSI had arranged for expensive gifts and all-expense paid trips for officials from government customers in Thailand. In addition, the SEC stated that UTSI made sham payments to a Mongolian consulting company for the purpose of bribing a Mongolian government official to help UTSI obtain a favorable ruling in a license dispute." (Source: US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, UTStarcom Inc. Case Summary at 56-57.)

Sources :

US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, UTStarcom Inc. Case Summary at 56-57, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>.
US Securities and Exchange Commission Litigation Release No. 21357 / December 31, 2009, Securities and Exchange Commission v. UTStarcom, Inc., Case No. CV-09-6094 (JSW) (N.D. Cal. filed Dec. 31, 2009), "SEC Charges California Telecom Company with Bribery and Other FCPA Violations," accessed at <http://www.sec.gov/litigation/litreleases/2009/lr21357.htm>;
Complaint filed December 31, 2009, accessed at <http://www.sec.gov/litigation/complaints/2009/comp21357.pdf>