

BHP Billiton Ltd. and BHP Billiton Plc

Case ID:

ST-416

Case Cluster :

BHP Billiton

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Burundi; other unnamed African and Asian countries

Year of Settlement:

2015

Month/Day of Settlement (or Notes):

5/20

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Cease and Desist Order

Monetary Sanctions (Types):

Civil Penalty

Total Monetary Sanctions (US\$):

\$25,000,000

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$25,000,000

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

\$0

Monetary Sanctions Returned / Ordered Returned (Explanation):

NA

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 8

Offenses - Alleged:

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 US Securities and Exchange Commission, BHPB is a global resources company that is among the world's leading producers of major commodities, including iron ore, coal, oil and gas, copper, aluminum, manganese, uranium, nickel, and silver. "This matter concerns BHPB's failure to devise and maintain sufficient internal controls over a global hospitality program that the company hosted in connection with its sponsorship of the 2008 Beijing Summer Olympic Games. BHPB invited approximately 176 government officials and employees of state-owned enterprises (collectively, "government officials") to attend the Olympics at BHPB's expense. The majority of these invitations were extended to government officials from countries in Africa and Asia that had well-known histories of corruption. The three to four day hospitality packages included event tickets, luxury hotel accommodations, meals, other hospitality, and, in many instances, offers of business-class airfare for government officials and their guests. BHPB informed its employees that "[o]ne of the core objectives [of the Olympic sponsorship] is to maximize the commercial investment made in the Games through assisting [BHPB] to strengthen relationships with key local and global stakeholders, e.g.: Government Ministers, Suppliers and Customers," and that the hospitality program was "a primary vehicle to ensure this goal is achieved." 2. BHPB recognized that inviting government officials to the Olympics created a heightened risk of violating anti-corruption laws and the company's own Guide to Business Conduct, but the internal controls it developed and relied upon in an effort to address this risk were insufficient. As a result, BHPB invited government officials who were directly involved in, or in a position to influence, pending contract negotiations, efforts to obtain access rights, regulatory actions, or business dealings affecting BHPB in multiple countries. In addition, BHPB's books and records, namely certain internal forms that employees prepared in order to invite a government official to the Olympics, did not, in reasonable detail, accurately and fairly reflect BHPB's pending negotiations or business dealings with the government official at the time of the invitation." (Source: SEC Administrative Proceedings, File No. 3-16546, In the Matter of BHP Billiton Ltd. and BHP Billiton Plc, May 20, 2015.)

Sources :

US Securities and Exchange Commission, Administrative Proceedings, File No. 3-16546, In the Matter of BHP Billiton Ltd. and BHP Billiton Plc, May 20, 2015, at <https://www.sec.gov/litigation/admin/2015/34-74998.pdf>