

Securrency International Pty Ltd / David Ellery

Case ID:

ST-505

Case Cluster :

Securrency Intl Pty Ltd.

Jurisdiction of Settlement:

Australia

Jurisdiction of Settlement / Enforcement Agency:

Commonwealth Director of Public Prosecutions

Jurisdiction of Foreign Public Official(s) :

Malaysia

Year of Settlement:

2012

Month/Day of Settlement (or Notes):

8/20

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Criminal

Legal Form of Settlement:

Guilty Plea

Monetary Sanctions (Types):

None

Total Monetary Sanctions (US\$):

\$0

Criminal Fine/Penalty (US\$) :

\$0

Criminal Forfeiture / Confiscation (US\$):

\$0

Criminal Restitution / Reparation (US\$):

\$0

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. 8

Offenses - Alleged:

False Accounting

Offenses - Settled:

False Accounting

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the Sentencing in R v. Ellery, David John Ellery pleaded guilty to one charge of false accounting, contrary to s 83(1)(a) of the Crimes Act 1958 (Vic). "The offence occurred between 28 June and 19 July 2006. At the time, [Mr. Ellery was] the chief financial officer, and a company secretary, of Securrency International Pty Ltd (?Securrency?). 3 Securrency is an Australian company, which is jointly owned by the Reserve Bank of Australia and a British company, Innovia Films BVBA. Securrency manufactures and supplies a range of unique substances used in banknotes and security documents. Its polymer substrate product is used by various people, including another Reserve Bank subsidiary, Note Printing Australia Limited (?Note Printing?), in the printing of banknotes. 4 In 1999 and 2000, Note Printing and Securrency each negotiated and entered into separate agreements with a Malaysian man, Abdul Kayum Syed Ahmad (?Kayum?), and/or his company, Aksavest Sdn Bhd, appointing them as their agent in Malaysia. The agency agreements provided that the agent was to be remunerated in the form of success-based commissions, based on the contracts which the agent obtained for the relevant company. The agent was to bear the cost of any expenses incurred in order to obtain contracts. 5 In December 2003, Note Printing entered into a contract to supply Bank Negara Malaysia with 160 million 5 ringgit polymer banknotes. Securrency was not a party to the banknote contract. Note Printing used Securrency?s polymer substrate in manufacturing the banknotes, and the contract price of \$15.2 million included a price for that substrate. Note Printing paid Kayum substantial commission payments, in respect of the 2003 contract. 6 The Commonwealth Director of Public Prosecutions has brought charges against Securrency, Note Printing, and various former officers of the two companies, alleging that they conspired with each other and with Kayum, between October 2001 and December 2003, to offer bribes to officials in the Malaysian bank, in order to obtain the business of supplying 5 ringgit polymer banknotes. The DPP alleges that the bribes were to be paid from the commission payable to Kayum. 7 The DPP does not allege that [Mr. Ellery was] a participant in the alleged Malaysian conspiracy, or that [he was] involved in it when, in mid-2006, [he] committed the false accounting offence to which [he has] pleaded guilty." (Source: R v. Ellery [2012] VSC 349, Sentencing.)

Sources :

R v. Ellery [2012] VSC 349, Sentencing at <http://www.austlii.edu.au/cgi-bin/sign.cgi/au/cases/vic/VSC/2012/349>; Australia Federal Police Media Release, "Foreign bribery charges laid in Australia," July 1, 2011, at <http://www.afp.gov.au/media-centre/news/afp/2011/july/foreign-bribery-charges-laid-in-australia.aspx>; "Further charges laid in foreign bribery investigation," August 10, 2011, at <http://www.afp.gov.au/media-centre/news/afp/2011/august/further-charges-laid-in-foreign-bribery-investigation>; Robert Wyld, "An Update From Australia ? Securrency Banknote Printing Bribery Scandal Secures First Conviction And Sentence And Pressure Increases On Australia?s Central Bank," FCPA Professor, August 30, 2012, at <http://fcpprofessor.com/an-update-from-australia-securrency-banknote-printing-bribery-scandal-secures-first-conviction-and-sentence-and-pressure-increases-on-australias-central-bank/>; Sentencing document