



The Orator

Newsletter of the Indianapolis Chapter of the Federal Bar Association

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CONGRATULATIONS TO MAGISTRATE JUDGE DINSMORE AND DENISE K. LARUE

The Indianapolis Chapter of the Federal Bar Association would like to congratulate Magistrate Judge Mark J. Dinsmore and Denise K. LaRue on their recent achievements. On December 17, 2010, Magistrate Judge Dinsmore was sworn in and began serving as a Magistrate Judge for the Indianapolis Division of the Southern District of Indiana.

Additionally, we would like to congratulate Denise K. LaRue on her selection for the new Magistrate Judge position created for the Indianapolis Division of the Southern District of Indiana.

We welcome each of you in your new positions and wish you continued success!

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A Message From Our President

By Shelese Woods, Esq.

President of the Indianapolis Chapter of the Federal Bar Association

It is my pleasure to begin serving my second year as President of the Federal Bar Association's Indianapolis Chapter. We had a very exciting and changed-filled 2010, welcoming district court judges Jane Magnus-Stinson and Tanya Walton Pratt to the bench, along with Magistrate Judge Mark Dinsmore. On March 1, 2011, the district court announced the selection of Denise LaRue to fill a new magistrate judgeship position created for the Southern District of Indiana. Congratulations to all of our new judges and selectees.

Some of the FBA's 2010 programming highlights included an Advanced Trial Practice CLE, presented by Chief Judge Richard Young, a program on Health Care Fraud and Abuse, and an Introduction to Federal Courts program featuring Judge William Lawrence and Magistrate Judge Debra McVicker Lynch. We then capped off the year by co-sponsoring with the district court an all-day Advanced Legal Writing CLE. Many thanks to Chief Judge Young for spearheading this exciting and rewarding CLE event.

The 2011 Executive Board already held its first meeting of the year and we look forward to implementing some exciting programs in 2011. Your 2011 Executive Board is:

- Kathleen Hart (Bose McKinney & Evans)- Immediate Past President
- Shelese Woods (U.S. Attorney's Office)- President
- Craig Williams (Hall Render Killian Heath & Lyman)- Vice-President
- Mickey Lee (Stewart & Irwin)- Treasurer
- Robert Seidler (Ogletree Deakins)- Secretary

- Dana Stutzman (Hall Render Killian Heath & Lyman)- Program Chair
- Koryn McHone (Barnes & Thornburg) – Newsletter Chair

For our first program of the year, we are pleased to announce that Magistrate Judge Mark Dinsmore has kindly agreed to present a one hour program on **Thursday, June 23, 2011, from noon until 1:00 p.m.** Please mark your calendar and spread the word. Additional information and details will be forthcoming. The FBA will be requesting one hour of CLE credit for this event.

We also plan to continue our efforts to provide programming in areas of interest to our membership and present our Introduction to the Federal Courts CLE for new (and not-so-new!) federal practitioners in the Fall of 2011. Be on the lookout for emails about program throughout the Spring and Summer.

FBA members should also be aware of the 60th Annual Meeting of the Seventh Circuit Bar Association and Judicial Conference, to be held at the Pfister Hotel in Milwaukee from May 15 - 17, 2011. This is always a wonderful opportunity to hear from federal judges and practitioners on issues facing our federal practice in the Seventh Circuit and nationally. Check the Seventh Circuit Bar Association's website for registration information.

2011 looks to be a year of momentous change in the United States District Court for the Southern District of Indiana. We look forward to keeping you apprised of issues facing our federal practice, and welcome any input or suggestions you may have about how we may better serve you. Please feel free to contact me or another member of the Executive Board.

Health Care Providers that Enter TRICARE Network Agreements are Federal Subcontractors Subject to OFCCP Jurisdiction

By Jonathan C. Bumgarner, Esq.

An important labor and employment case that affects the health care industry, both across the nation and in Indiana, is *In the Matter of Office of Federal Contract Compliance Programs, United States Department of Labor v. Florida Hospital of Orlando*.¹ There, an administrative law judge (“ALJ”) held that the Office of Federal Contract Compliance Programs (“OFCCP”), the federal government agency that enforces the affirmative action and equal employment opportunity requirements of federal contractors, has jurisdiction over TRICARE network providers.

OFCCP v. Florida Hospital of Orlando

The defendant in this case, Florida Hospital of Orlando (“Hospital”), is an acute care, not-for-profit hospital located in Orlando, Florida. The Hospital had a contract with Humana Military Healthcare Services, Inc. (“HMHS”) to provide health care services for TRICARE beneficiaries, pursuant to a prime federal contract between HMHS and TRICARE Management Activity (“TMA”). TRICARE is the federal health care program serving active duty military service members, members of the National Guard and Reserve, military retirees, and the families of military service members. TMA is a program of the U.S. Department of Defense that administers TRICARE. To assist with the administration of TRICARE, TMA contracts with managed care contractors, such as HMHS, who are responsible for “establish[ing] networks of providers who agree to follow the rules and procedures of the TRICARE program when treating TRICARE patients.” It was this type of “network provider agreement” that the Hospital had entered into with HMHS.

On August 14, 2007, OFCCP initiated a compliance review of the Hospital and requested documentation to show that the Hospital was

complying with the Department of Labor’s federal contractor obligations. The rules enforced by OFCCP prohibit employment discrimination by federal contractors and subcontractors. In addition, those with (i) fifty or more employees and (ii) a federal contract or subcontract valued at \$50,000 or more must prepare and maintain written affirmative action plans in accordance with complicated and burdensome regulations. The Hospital refused to provide any information requested by OFCCP, arguing that it was not a federal contractor or subcontractor subject to OFCCP’s jurisdiction.

The Hospital presented two arguments in support of its position, both of which were rejected by the ALJ. Each of the Hospital’s arguments—and the ALJ’s ruling in response—is addressed below.

Florida Hospital of Orlando Entered Into a Covered Subcontract

The Hospital first argued that it is not a contractor because it did not enter into a covered federal subcontract. Under the applicable regulations, a “subcontract” is defined as:

Any agreement or arrangement between a contractor and any person ... : (1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or (2) Under which any portion of the contractor’s obligation under any one or more contracts is performed, undertaken or assumed.

The ALJ, however, rejected the Hospital’s argument that it was not a covered subcontractor. Relying on *OFCCP v. UPMC Braddock*, ARB Case No. 08-048 (May 29, 2009), *aff’g* 2007-OFC- 1, 2 and 3 (ALJ Jan. 16, 2008),² the ALJ found that the Hospital *did* perform a portion of the contractor’s obligation under its contract with TRICARE. Specifically, the Hospital agreed to

provide medical services to TRICARE beneficiaries which, according to the ALJ, was part of HMHS's obligation under its prime federal contract with TMA.

The TRICARE Program is Not “Federal Financial Assistance”

The second argument raised by the Hospital was that its participation in the TRICARE program constitutes the receipt of federal financial assistance, and OFCCP does not have jurisdiction over businesses solely on the basis of receiving federal financial assistance. In support of their argument, the Hospital pointed to a 1993 OFCCP directive, which stated that “OFCCP lacks jurisdiction over businesses if their only relationship with the federal government is as a recipient of federal financial assistance, be it from Medicare or other federal programs.”³ The Hospital argued that TRICARE is “essentially indistinguishable” from Medicare and, therefore, OFCCP lacks jurisdiction over the Hospital.

The ALJ rejected the hospital's argument that participation in TRICARE was akin to participation in Medicare, calling them “totally different programs.” The judge noted that Medicare is an insurance program which merely pays for, but does not *provide*, medical services. TRICARE, on the other hand, does both. Again, because the hospital had agreed to provide a portion of those medical services, it was deemed to be a covered federal subcontractor.

Ultimately, the Hospital was ordered to give OFCCP access to its facilities and otherwise permit OFCCP to conduct and complete its compliance audit.

Developments in the Law After *OFCCP v. Florida Hospital of Orlando*

Following the ALJ's decision, the Hospital filed an appeal to the Administrative Review Board. Although that appeal is still pending, OFCCP has already issued a new directive which incorporates the ALJ's holding into OFCCP's

official internal policy. The directive, Number 293, which supersedes the earlier directive that the Hospital attempted to rely upon, specifically lists TRICARE as a federal health care program.⁴ Further, the directive explains that if a prime federal contractor (such as HMHS) holds a contract to provide “medical products and services” or to provide a “network of health care providers,” then any subsequent subcontract between the prime contractor and a health care provider is a covered subcontract *if* the health care provider agrees to perform any portion of the prime contractor's contractual obligation.

OFCCP also used its new directive to announce, for the first time, its position that certain arrangements under Medicare Parts C (Medicare Advantage) and D (Prescription Drug Plans) may cause health care providers to be covered federal contractors. OFCCP's ability to enforce this position, which has not yet been litigated, will likely depend on the results of pending appeals in the *UPMC Braddock* and *Florida Hospital of Orlando* cases.

Practical Advice for Health Care Providers

The *Florida Hospital of Orlando* decision and OFCCP's new directive clearly demonstrate that OFCCP is attempting to expand its jurisdictional reach in the health care industry. If OFCCP's initial litigation victories are upheld on appeal, the number of health care providers subject to affirmative action requirements will dramatically increase. As a result, health care providers are advised to closely examine any and all arrangements they may have with TRICARE as well as any other federal health care programs in order to determine the likelihood that they would be considered federal contractors subject to affirmative action obligations.

¹ *OFCCP v. Florida Hospital of Orlando*, United States Dep't of Labor, Office of A.L.J., Case No. 2009-OFC-00002 (October 18, 2010).

² *OFCCP v. UPMC Braddock*, ARB Case No. 08-048 (May 29, 2009), *aff'g* 2007- OFC- 1, 2 and 3 (ALJ Jan. 16, 2008) (holding that defendant hospitals were subcontractors to a

government contract where the hospital contracted with an HMO to provide medical services to federal employees pursuant to an agreement between the HMO and the federal Office of Personnel Management). Like the Florida Hospital of Orlando case, this decision is pending appeal.

³ Directive Number 189, Health Care Entities that Receive Medicare and/or Medicaid (December 16, 1993).

⁴ Directive Number 293, Coverage of Health Care Providers and Insurers (December 16, 2010).

*Jonathan C. Bumgarner is partner in the labor and employment law section at the law firm of Hall, Render, Killian, Heath & Lyman.

Update on Social Security Disability Law

By Timothy J. Vrana, Esq.

Social Security disability cases aren't always confined to administrative hearings in the Gold Building in Indianapolis. Occasionally, they find their way into district court. Once in a great while, they go to the court of appeals.

In almost 29 years of practice, I have taken four Social Security cases to the Seventh Circuit. Most recently, I went up on behalf of Mrs. Louquetta O'Connor-Spinner.

When a Social Security case is appealed to federal court, the district court reviews the Social Security Administration's decision under a substantial evidence standard. No trial takes place in federal court; the administrative hearing is, in essence, the trial. The district court sits as an appellate court. If the district court's decision is appealed, the court of appeals uses the same standard of review as the district court.

In Mrs. O'Connor-Spinner's case, the issue involved the hypothetical question asked by the administrative law judge to the vocational expert. The VE's answer to the question was the basis for the ALJ's decision denying benefits.

At administrative hearings, ALJs often use VEs to provide testimony about whether various hypothetical workers could sustain full-time jobs

that exist in significant numbers in the national economy. Hypothetical questions to a VE must include all of the claimant's limitations. *Steele v. Barnhart*, 290 F.3d 936, 942 (7th Cir. 2002).

The reason for the rule is to ensure that the VE does not refer to jobs that the claimant cannot do because the expert did not know the full range of the claimant's limitations. *Id.* When a decision is based on the answer to a hypothetical question that is fundamentally flawed because it does not include all of a claimant's limitations, the ALJ's decision cannot stand. *Young v. Barnhart*, 362 F.3d 995, 1005 (7th Cir. 2004).

The ALJ in Mrs. O'Connor-Spinner's case found that she has moderate limitations in her abilities to maintain concentration, persistence, and pace. The ALJ did not include these limitations in his hypothetical question to the VE. The ALJ's question did limit the hypothetical worker to simple, routine, repetitive tasks.

On appeal, I argued that the inability to do complex, out-of-the-ordinary tasks are different from the inability to concentrate, persist, and keep up the pace. The first set of limitations addresses the level of complexity the worker can manage. The second set addresses whether the worker can stay with work at a consistent pace long enough to finish tasks in a timely manner.

Defendant, the Commissioner of the Social Security Administration, disagreed. He claimed that moderate difficulties in concentration, persistence, and pace translated more specifically into the worker being limited to simple, routine, repetitive work.

Both parties acknowledged the same 7th Circuit opinions. One line of cases, starting with *Kasarsky v. Barnhart*, 335 F.3d 539 (7th Cir. 2002), was quite helpful to the plaintiff. In *Kasarsky*, the Court of Appeals held that limiting the worker to simple tasks did not account for frequent deficiencies in concentration, persistence, and pace. *Id.* at 544.

Another line of cases, starting with *Johansen v.*

Barnhart, 314 F.3d 283 (7th Cir. 2002), was quite helpful to the defendant. In *Johansen*, the Court held that limiting the worker to low-stress, repetitive work accounted for mild to moderate limitations in the abilities to maintain regular attendance, be punctual, complete a normal workday and workweek without interruptions, perform at a consistent pace, accept instructions, and respond appropriately to criticism from supervisors. *Id.* at 285-86.

Subsequent cases further cemented the difference between the two lines of authority. For example, in 2009, the Court wrote in *Stewart v. Astrue*, 561 F.3d 679 (7th Cir. 2009), that Ms. Stewart's limitations of concentration, persistence, and pace were not accounted for by restricting her to simple, routine tasks. *Id.* at 685. The Court added, "The Commissioner continues to defend the ALJ's attempt to account for mental impairments by restricting the hypothetical [worker] to 'simple' tasks, and we and our sister courts continue to reject the Commissioner's position." *Id.*

Less than four months later, the Court held that a claimant's moderate difficulties with concentration, persistence, and pace were adequately accounted for in the hypothetical questions by limiting the worker to unskilled work. *Simila v. Astrue*, 573 F.3d 503, 521-22 (7th Cir. 2009). The *Simila* opinion did not mention *Kasarsky*, *Johansen*, or *Stewart*. The Court did recognize that the ALJ's hypothetical was "imperfect," *Simila*, 573 F.3d at 507, and described as "troubling" the omission of the difficulties with concentration, persistence, and pace. *Id.* at 521.

In Mrs. O'Connor-Spinner's case, I argued that the issue was explored at some length in *Kasarsky* and was not addressed in significant depth in *Johansen*. The Commissioner countered that *Johansen* could not be overruled by implication, even if subsequent decisions were more detailed. Citing Circuit Rule 40(e) and *United States v. Dalhouse*, 534 F.3d 803, 806 (7th Cir. 2008), the Commissioner claimed that a 7th Circuit opinion

can be overruled only explicitly and only by an opinion circulated to the entire court.

Circuit Rule 40(e) states that a proposed opinion by a 7th Circuit panel that adopts a position overruling a previous decision of the Court shall not be published unless it is first circulated throughout the entire court, with a majority voting not to rehear the issue en banc. According to *Dalhouse*, the rule applies only to "well-established circuit precedent." *Id.* at 806-07.

I argued that *Johansen* was not well-established precedent. In addition, given some unique timing and publication facts with *Kasarsky* and *Johansen*, I admitted that it was not clear to me how Circuit Rule 40(e) would operate in Mrs. O'Connor-Spinner's case. *Kasarsky* was decided on April 5, 2002, and originally issued as an unpublished order. *Johansen* was decided on December 23, 2002, and published immediately. *Kasarsky* was subsequently published on July 9, 2003. As a result of this sequence of events, neither opinion cited the other, and neither opinion cited Circuit Rule 40(e).

At oral argument, one judge asked me if I could reconcile the two lines of cases. I replied that I had tried many times to do so, but had been unsuccessful. There was no discussion of Circuit Rule 40(e).

Oral argument took place on July 8, 2010. Hoosier attorneys (and friends) Bill Marsh and Crystal Rowe had arguments the same day, and both had decisions by mid-August. September and October came and went without a decision in Mrs. O'Connor-Spinner's case.

On the Monday after Thanksgiving, the Court of Appeals handed down its opinion in *O'Connor-Spinner v. Astrue*, 627 F.3d 614 (7th Cir. 2010). The Court held that limiting a hypothetical worker to simple, repetitive work does not necessarily address deficiencies of concentration, persistence, and pace. *Id.* at 620. In most cases, wrote the Court, the ALJ should

refer expressly to limitations on concentration, persistence, and pace to focus the vocational expert's attention on these limitations and assure reviewing courts that the VE's testimony is substantial evidence of the jobs a claimant can do. *Id.* at 620-21.

The Court reconciled the two seemingly contradictory lines of authority by stating that it had let stand hypothetical questions when stress or panic caused deficiencies in concentration, persistence, and pace, and the hypothetical limited the worker to simple, repetitive, low-stress work. *Id.* at 619. Otherwise, the hypothetical had to have included deficiencies in concentration, persistence, or pace. *Id.* at 620. Circuit Rule 40(e) was not mentioned in the decision.

The outcome was very satisfying. Most importantly for Mrs. O'Connor-Spinner, the Court issued a remand. Most importantly for Social Security disability practitioners in the 7th Circuit, the Court resolved a significant, disputed issue.

*Timothy J. Vrana practices law at the law firm of Timothy J. Vrana LLC in Columbus, Indiana.

An Overview Of Effective FCPA Compliance Programs In an Age of Increased Enforcement

By Trent J. Sandifur, Esq.

Enforcement of the Foreign Corrupt Practices Act ("FCPA"), which prohibits the bribery of foreign government officials to obtain or retain business, has steadily increased over the last several years and exploded in 2010, which saw:

- The Department of Justice ("DOJ") execute the self-described "largest action ever undertaken by the Justice Department against individuals for FCPA violations" in the FCPA's 33-year history;
- The Securities and Exchange Commission ("SEC") launch a specialized FCPA enforcement unit;

- The DOJ make twenty-five additions to its roster of FCPA prosecutors;
- The imposition of the longest prison sentence against an individual in the FCPA history;
- The scope of FCPA enforcement focus expand beyond traditionally scrutinized industries;
- Companies pay eight of the ten largest settlements in FCPA history;
- Partners in a Nigerian joint venture pay more than \$1.25 billion in penalties; and
- Passage of the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, which gave potential whistleblowers tremendous financial incentive to report possible FCPA violations to the government.

This jarring escalation in FCPA enforcement activity shows no signs of slowing, although challenges to DOJ's expansive application of the FCPA have emerged—likely due to an increase in FCPA prosecutions against individuals facing imprisonment if convicted.

Effective FCPA Compliance Programs

As the DOJ and SEC continue their rapid march into a new age of rigorous FCPA enforcement, companies subject to the FCPA must keep pace through improving (or creating) FCPA compliance programs.¹ The establishment of an effective FCPA compliance program consists of four steps:

- Step 1: Foreign bribery hazard identification
- Step 2: Foreign bribery hazard risk assessment
- Step 3: Development and implementation of tailored FCPA policies, procedures, and control measures
- Step 4: Supervision and evaluation

Step 1: Foreign bribery hazard identification

A foreign bribery hazard is a condition with the potential to cause or result in the bribery of a foreign official. While a company's foreign bribery hazards are highly fact-dependent and should be identified as specifically as possible, broad categories of foreign bribery hazards include:

- Conducting business in a foreign country with a reputation for corruption;
- Having employees or agents that regularly interact with foreign government officials;
- Operating in an industry that has been a common source of FCPA violations;
- Partnering with a foreign company in a joint venture;
- Requiring a large amount of business permits or licenses from foreign governments;
- Conducting business in a foreign country with a high level of government oversight; and
- Having significant (in volume or importance) goods and personnel that require foreign customs or immigration clearance.

Per DOJ guidance in recent FCPA deferred prosecution agreements ("DPAs") and non-prosecution agreements ("NPAs"), a company should consider these categories in identifying potential foreign bribery hazards. However, these categories merely combine to form the starting point in the hazard identification process. A detailed, in-depth analysis of potential foreign bribery hazards, based on the specific facts and circumstances a company faces, should also occur in order to meet DOJ's high FCPA compliance standards.

Step 2: Foreign bribery hazard risk assessment

After identifying all of the potential foreign bribery hazards it faces, a company should determine, for each hazard: (1) the probability that the hazard will result in an FCPA violation, and (2)

the expected severity if the hazard results in an FCPA violation (*i.e.*, criminal exposure, civil exposure, and negative business impact). There are numerous tools and techniques to quantitatively and qualitatively assess the probability and severity of a given foreign bribery hazard. Regardless of the risk assessment methodology employed, the greater the combined probability and severity of an FCPA bribery hazard, the greater the risk associated with that hazard.

The foreign bribery hazard risk assessment is crucial because it allows a company to focus its FCPA compliance program on the hazards that pose the greatest risks. Of course, any effective compliance program also should address lower risk foreign bribery hazards, but a proper risk assessment will ensure that high risk hazards are not ignored and that compliance resources are properly allocated. Only after completing its risk assessment should a company develop the elements of its FCPA compliance program. Developing FCPA policies, procedures, and control measures without first conducting a risk assessment is putting the proverbial cart before the horse, and will result in an unfocused and ineffective "one size fits all" program to which the DOJ accords little value.

Step 3: Development and implementation of tailored FCPA policies, procedures, and control measures

After assessing its foreign bribery hazard risk, a company should develop and implement tailored FCPA policies, procedures, and control measures. An effective FCPA compliance program should include both broad, overarching policies and procedures that apply program-wide, such as strong senior management support for the company's FCPA compliance efforts, and more specific control measures that reduce the risk (probability/severity) associated with each foreign bribery hazard identified in Step 1. The minimal elements of an effective FCPA compliance program identified in recent FCPA DPAs and NPAs include:

- Development and promulgation of a clearly articulated and visible corporate anti-corruption policy and compliance code of conduct;
- Strong, explicit, and visible senior management support for its corporate anti-corruption policy and compliance code of conduct;
- Implementation of policies governing gifts; hospitality, entertainment, and expenses; customer travel; political contributions; charitable donations and sponsorships; facilitation payments; and solicitation and extortion;
- A system of financial and accounting procedures designed to ensure that the company maintains fair and accurate books, records, and accounts²;
- Periodic and certified FCPA compliance training for all directors, officers, and employees, and, where necessary and appropriate, agents and business partners;
- An effective system for providing FCPA compliance guidance (including urgent requests) and receiving confidential reporting of potential FCPA violations (e.g., an “FCPA hotline”);
- Appropriate disciplinary procedures to address FCPA violations and the failure to comply with the company’s FCPA compliance code;
- Documentation of due diligence completed in hiring and oversight of agents and business partners;
- Informing agents and business partners of the company’s commitment to following foreign bribery laws and the company’s ethics and compliance standards and procedures and other anti-bribery measures and seeking a reciprocal commitment from them;
- Standard provisions in agreements with agents and business partners that are reasonably calculated to prevent violations of the FCPA.

As with Step 1, these elements provide a good starting point in the development of an FCPA

compliance program, but a company should also develop more tailored policies, procedures, and control measures based on the specific foreign bribery hazards it faces. In implementing its FCPA compliance program, a company should ensure that its policies, procedures, and control measures are fully integrated into all relevant company sectors (e.g. sales, finance, legal, and human resources) and that they are easily understood by the respective target audiences. Additionally, it is crucial that a company conduct independent and comprehensive internal investigations of potential FCPA violations. The ultimate implementation goal is for the FCPA compliance program to become engrained in the company’s corporate culture.

Step 4: Supervision and evaluation

The final step in the establishment of an effective FCPA compliance program consists of supervision and evaluation. This step is ongoing because, in order to remain effective and relevant, an FCPA compliance program should be supported and enforced through supervision and should adapt to ever-changing threat and enforcement environments through evaluation and testing. The DOJ typically requires that a company entering into a DPA or NPA assign implementation and oversight of its FCPA compliance program to a senior executive. The senior executive should have autonomy from management and, in order for the company to receive credit under the U.S. Sentencing Guidelines in the unfortunate event of an FCPA violation, direct reporting obligations to the company’s board of directors. Likewise, annual reviews and testing of FCPA compliance programs are hallmarks of recent FCPA DPAs and NPAs. A company should institute similar supervisory and evaluation structures and procedures as the final step in establishing an effective FCPA compliance program.

Conclusion

Aggressive FCPA enforcement is here to stay, and FCPA compliance programs for at-risk companies are no longer optional. Through

methodical application of the four steps discussed in this overview, a company can establish an effective FCPA compliance program that meets DOJ and SEC standards.

¹The FCPA applies to three broad groups:

1. U.S. companies (including officers, directors, employees, and agents), U.S. citizens, and U.S. residents;

2. Issuers of U.S. securities (including officers, directors, employees, and agents) (“Issuers”); and

3. Foreign companies and nationals that cause an act in furtherance of a corrupt payment to take place in U.S. territory.

² Issuers are also subject to the FCPA’s accounting provisions, which require Issuers to make and keep records that, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets. In practical terms, all three groups subject to the FCPA should strive meet the rudimentary “books and records” standard because any effective FCPA compliance program should include stringent accounting controls.

*Trent J. Sandifur is an associate at Taft, Stettinius & Hollister LLP who focuses his practice on Foreign Corrupt Practices Act (FCPA) compliance, investigations, and defense; white collar criminal defense; corporate internal investigations; government contractor compliance; and complex commercial litigation.

CALENDAR OF EVENTS

Please save the dates for these upcoming events:

60th Annual Meeting of the Seventh Circuit Bar Association and Judicial Conference

May 15 - 17, 2011

Pfister Hotel in Milwaukee, Wisconsin

Please see the Seventh Circuit Bar Association's website for additional information

Lunch CLE Program Hosted by Magistrate Judge Mark Dinsmore

June 23, 2011, noon through one o'clock p.m.

Indianapolis, Indiana (location TBD)

The details of this CLE are currently being finalized. Additional information will be e-mailed to Federal Bar Association Members, along with information on how to sign up. (To ensure receipt of such communications from the FBA, please make sure your contact information is up-to-date!)

Federal Bar Association

Indianapolis Chapter Executive Board

President

Shelese Woods
Assistant United States Attorney
Southern District of Indiana
10 West Market Street - Suite 2100
Indianapolis, IN 46204
(317) 226-6333
Shelese.Woods@usdoj.gov

Vice President

Craig M. Williams
Hall, Render, Killian, Heath &
Lyman PC
One American Square Suite 2000
Box 82064
Indianapolis, IN 46282
(317) 977-1457
cwilliams@hallrender.com

Secretary

Robert Seidler
Ogletree, Deakins, Nash, Smoak &
Stewart
111 Monument Circle, Suite 4600
Indianapolis, IN 46204
(317) 916-2115
robert.seidler@ogletreedeakins.com

Treasurer

Mickey J. Lee
Stewart & Irwin PC
251 E. Ohio Street, Ste. 1100
Indianapolis, IN 46204
(317) 396-9513
mlee@silegal.com

Program Chair

Dana E. Stutzman
Hall, Render, Killian, Heath &
Lyman PC
One American Square Suite 2000
Box 82064
Indianapolis, IN 46282
(317) 633-4884
dstutzman@hallrender.com

Newsletter Chair

Koryn M. McHone
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204
(317) 231-7525
koryn.mchone@btlaw.com

Past President

Kathleen Hart
Bose McKinney & Evans LLP
135 North Pennsylvania Street
Suite 2700
Indianapolis, IN 46204
(317) 684-5252
khart@boselaw.com

Koryn M. McHone
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204

BULK RATE
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ADDRESS CORRECTION REQUESTED

Mailing Address
Street Number and Name
City, State 98765-4321