

FORMER VETCO INTERNATIONAL SUBSIDIARY AIBEL GROUP LTD. ADMITS TO FAILING TO MEET OBLIGATIONS UNDER DEFERRED PROSECUTION AGREEMENT AND AGREES TO PAY \$4.2 MILLION FINE FOR VIOLATING THE FOREIGN CORRUPT PRACTICES ACT

On November 21, 2008, Aibel Group Ltd. (“Aibel”), formerly a wholly owned subsidiary of Vetco International Ltd. (“Vetco”), pleaded guilty to a two-count superseding information charging conspiracy to violate and a substantive violation of the Foreign Corrupt Practices Act (“FCPA”). As part of its plea agreement with the United States Department of Justice (“DOJ”), Aibel agreed to pay a fine of \$4.2 million and submit to a two-year term of organizational probation.

Aibel’s guilty plea comes less than two years after it entered into a Deferred Prosecution Agreement (“DPA”) with the DOJ. That DPA contained, among other things, commitments by Aibel to (1) establish a Compliance Committee of its Board of Directors, (2) engage outside compliance counsel to monitor its duties and obligations under the DPA, and (3) establish and effectively implement a compliance program with respect to the FCPA, United States commercial bribery laws, and all applicable foreign bribery and anti-corruption laws. The plea agreement filed in the matter acknowledges that Aibel “committed substantial time, personnel, and resources to meeting the obligations of the DPA,” but states that despite that effort, Aibel “has failed to meet its obligations.”

To date, no specific details have been made available regarding the nature of Aibel’s failure with respect to its obligations under the DPA. However, a provision in the plea agreement requiring Aibel to submit a written report to the DOJ after 12 months and again after 24 months describing the efforts it has undertaken to put in place controls and systems to comply with all applicable anti-bribery laws suggests that Aibel’s failure may be related, at least broadly, to the requirement that it establish and implement an effective compliance program, a task with which other Vetco entities have struggled in the past.

Aibel’s guilty plea marks the third time since July 2004 that Vetco entities have pleaded guilty to violating the FCPA. On July 6, 2004, ABB Vetco Gray UK Ltd. (now Vetco Gray UK Ltd.) and an affiliated company pleaded guilty to violating the anti-bribery provisions of the FCPA in connection with the payment of more than \$1 million in bribes to officials of a Nigerian government agency responsible for approving bidders for contract work on oil exploration projects. The relevant Vetco entities agreed to pay in excess of \$16 million in fines and penalties as a result of that guilty plea.

On February 6, 2007, three other subsidiaries of Vetco – Vetco Gray Controls Inc., Vetco Gray Controls Ltd., and Vetco Gray UK Ltd. – pleaded guilty to violating the anti-bribery provisions of the FCPA in connection with the payment through a third-party agent of approximately \$2.1 million to employees of the Nigerian Customs Service. It was at this time that Aibel entered into its DPA. The pleading entities agreed to pay total combined fines of \$26 million. The DOJ stated that it had imposed the then-record fine in part because the companies had failed to comply with prior representations that they would implement a rigorous compliance program.

Aibel's guilty plea covers conduct that occurred several years prior to its entry into the DPA, during the period from 2002 to 2005. In pleading guilty, Aibel admitted to participating in a conspiracy during that time period to make corrupt payments to Nigerian Customs Service officials to induce those officials to provide preferential treatment in the customs clearance process and to secure an improper advantage with respect to the importation of goods and equipment into Nigeria. In particular, Aibel admitted that on at least 61 occasions, corrupt payments totaling approximately \$2.1 million were made, and that the total estimated value of the benefit received as a result of the illegal conduct was \$10.5 million.

With the addition of Aibel's guilty plea and sentence, the combined financial penalties paid by all Vetco entities for the 2004, 2007, and 2008 guilty pleas now exceed \$46 million.

This case highlights a number of issues relevant to FCPA enforcement and compliance. It illustrates the government's willingness to prosecute companies that fail to live up to obligations imposed pursuant to deferred prosecution or non-prosecution agreements even when, as the government acknowledged in this case, the company has devoted significant time, personnel, and resources to its effort to comply with the terms of the agreement. The risk of successive prosecution is particularly great for companies whose compliance programs are not fully developed at the time they enter into an agreement with the DOJ and that have a compliance monitor or consultant imposed as part of the agreement. In addition, aside from fines, penalties, and reputational damage associated with successive violations, such repeat prosecutions also typically extend the period of government scrutiny that a company will have to undergo. For example, Aibel is now obligated to report to the government for an additional two-year term. Such extended government monitoring can give rise to a vicious cycle of monitoring, violation, and prosecution, as has happened with the Vetco entities.

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If you have questions concerning the foregoing or would like additional information, please contact Martin J. Weinstein (202-303-1122, mweinsetin@willkie.com), Robert J. Meyer (202-303-1123, rmeyer@willkie.com), Jeffrey D. Clark (202-303-1139, jdclark@willkie.com), or the attorney with whom you regularly work.

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