Miller & Chevalier

Case Against Former Goldman Sachs Executive Highlights Value of Robust Anti-Corruption Programs and the Willingness to Make Tough Judgments

04.29.2020

In this article, Paul Leder and FeiFei Ren* discuss the recent case filed by the SEC against Asante Berko, a former Goldman executive, which drives home the need for companies to implement a robust anti-corruption compliance program. Despite the detailed allegations of specific bribes paid to government officials for obtaining business for Goldman and the aiding and abetting charges against Berko, Goldman was able to avoid FCPA charges because it implemented an anti-corruption program that caught the misconduct by a rogue employee, conducted a thorough investigation of red flags, and took appropriate actions. By comparing SEC's charging decision in the Berko case with two previous enforcement actions involving Morgan Stanley and Cardinal Health, the authors explained the importance of implementing high-quality anti-corruption programs tailored to identifying, investigating, and addressing potential risks and other concerns that may arise in specific high-risk jurisdictions. They also noted that taking immediate investigative and remedial actions after discovering misconduct or being unable to get satisfactory responses from third parties may protect a company against FCPA liability despite the concerted efforts of a rogue employee.

**Former Miller & Chevalier attorney*