



# FRAUD SECTION YEAR IN REVIEW 2016

**Fraud Section Webpages:**

Fraud Section: <http://www.justice.gov/criminal-fraud>

Foreign Corrupt Practices Act: <http://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

Health Care Fraud: <http://www.justice.gov/criminal-fraud/health-care-fraud-unit>

Securities & Financial Fraud: <http://www.justice.gov/criminal-fraud/securities-and-financial-fraud-unit>

Strategy, Policy & Training: <http://www.justice.gov/criminal-fraud/strategy-policy-and-training-unit>



## Welcome to the Fraud Section

The Fraud Section plays a pivotal role in the Department of Justice's fight against economic crime. The Section prosecutes white-collar crime in federal courts around the country, and focuses on cases of national significance and international scope. Fraud Section prosecutors have vast experience with corporate investigations, foreign bribery plots, and health care fraud schemes. Because of this expertise, and given that the Section has the largest constellation of white-collar prosecutors in the country, it is routinely the national leader in large, sophisticated financial fraud investigations and prosecutions. The Section also regularly partners with United States Attorney's Offices and coordinates with foreign law enforcement agencies.

The Section is composed of three litigating units – the Foreign Corrupt Practices Act (FCPA) Unit, the Health Care Fraud (HCF) Unit, and the Securities & Financial Fraud (SFF) Unit – as well as the Strategy, Policy & Training (SPT) Unit and the Administration & Management Unit. The FCPA Unit has primary jurisdiction among Department components in prosecuting FCPA matters and in developing FCPA enforcement policy. The HCF Unit identifies and responds to emerging fraud trends across the country, including large corporate health care fraud. The SFF Unit has unrivaled expertise in corporate fraud matters and in parallel investigations with domestic and foreign law enforcement agencies and regulators. The SPT Unit develops and implements strategic enforcement initiatives to identify and combat emerging white-collar crimes. The Administrative & Management Unit provides office support services and advises and assists management on administrative matters.

The Fraud Section employs more than 150 prosecutors. In addition, the Fraud Section has over 20 federal support staff, and more than 130 contract support staff.

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### Fraud Section Statistics in 2016<sup>1</sup>

- 300 individuals charged
- 201 individuals convicted
- 15 corporate resolutions
- \$1.51 billion in corporate U.S. criminal fines, penalties, and forfeiture, and total resolution amounts payable to U.S. and foreign authorities of \$7.8 billion

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The Fraud Section is located in Washington, D.C. The HCF Unit has Medicare Fraud Strike Forces in Brooklyn, NY; Miami and Tampa, FL; Detroit, MI; Chicago, IL; New Orleans and Baton Rouge, LA; Houston, TX; and Los Angeles, CA; and a corporate strike force in Washington, D.C.

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<sup>1</sup> The summary statistics in this document exclude sealed cases and provide approximate dollar amounts for the referenced corporate resolutions, which are available on our website at <https://www.justice.gov/criminal-fraud>.

# Fraud Section Senior Management

## ***Fraud Section Chief***

Andrew Weissmann was selected as Chief in January 2015. He returned to the Criminal Division after teaching at the NYU School of Law and serving as the FBI's General Counsel. Previously, he was a partner at Jenner & Block in New York.

Weissmann began his DOJ career in 1991 at the U.S. Attorney's Office for the Eastern District of New York, where he served in various leadership positions including as chief of the EDNY's criminal division. Weissmann also was the director of the Enron Task Force, where he oversaw high-profile investigations and prosecutions of executives and corporations. He clerked for the Hon. Eugene H. Nickerson (EDNY).

## ***Principal Deputy Chief***

Sandra Moser joined the Fraud Section in 2012 from the U.S. Attorney's Office for the District of New Jersey. Moser became the Principal Deputy Chief of the Fraud Section in July 2016 and previously served as Acting Senior Deputy Chief and an Assistant Chief in the SFF Unit. She previously worked at Morgan, Lewis & Bockius and Drinker Biddle & Reath, and clerked for the Hon. Norma L. Shapiro (ED Pa.) and the Hon. Marjorie Rendell (3rd Cir.).

## ***Senior Deputy Chief***

Kathleen McGovern joined the Fraud Section in 2003 from the Suffolk County District Attorney's Office (NY). McGovern became a Senior Deputy Chief of the Fraud Section in July 2010 and previously served as Deputy Chief, Senior Litigation Counsel, and Assistant Chief in the SFF Unit. She is an adjunct professor at the Georgetown University Law Center teaching courses in white-collar crime and securities investigations.

## ***FCPA Unit Chief***

Daniel Kahn joined the Fraud Section in 2010. Kahn became the Chief of the FCPA Unit in March 2016 after serving as an Assistant Chief in that unit since 2013. He previously worked at Davis Polk & Wardwell in New York.

## ***HCF Unit Chief***

Joseph Beemsterboer joined the Fraud Section in 2010. Beemsterboer became the Chief of the HCF Unit in July 2016 after serving as an Assistant Chief in the unit since 2013. He previously worked at the Cook County State's Attorney's Office (IL) and McKenna Long & Aldridge in Washington, D.C.

## ***SFF Unit Chief***

Benjamin Singer joined the Fraud Section in 2009. Singer became the Chief of the SFF Unit in May 2014. Prior to serving as Chief of the SFF Unit, Singer served in various roles within the Fraud Section, including as Chief of the HCF Unit. He previously worked at Linklaters and White & Case in New York.

## ***SPT Unit Chief***

Pablo Quiñones joined the Fraud Section in December 2015. He began his DOJ career at the U.S. Attorney's Office for the Southern District of New York, where he served as an AUSA from 2004-12, including as a member of the SDNY's Securities and Commodities Fraud Task Force. Prior to his government service, Quiñones was a partner at Reed Smith and Anderson Kill & Olick, general counsel of an investment company, and associate general counsel of a healthcare company.

# Foreign Corrupt Practices Act Unit

The FCPA Unit investigates and prosecutes cases under the FCPA and related statutes. Our prosecutors coordinate with international law enforcement partners to fight foreign bribery by both American and foreign individuals and companies. Given the global nature of our economy, corruption abroad poses a serious threat to American citizens and companies that are trying to compete in a fair and transparent marketplace.

In April 2016, the Section began a Pilot Program in the FCPA Unit, providing guidance to prosecutors and transparency to companies about the definition and benefits of voluntarily self-disclosing misconduct, cooperation, and remediation in FCPA cases. In 2016, the FCPA Unit announced five declinations under the Pilot Program, all of which can be found on the FCPA Unit's website. The FCPA Unit has more than 30 prosecutors.

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## FCPA Unit Statistics 2016

- 17 individuals charged or pleaded guilty
- 13 corporate resolutions
- \$1.36 billion in corporate U.S. criminal fines, penalties, and forfeiture, and total resolution amounts payable to U.S. and foreign authorities of \$7.3 billion
- 5 Pilot Program declinations in which the companies agreed to disgorge illicit profits totaling more than \$15 million to either the Department or the SEC

## *Odebrecht S.A. and Braskem S.A.*

December 2016 – In the largest global foreign bribery resolution ever, Odebrecht S.A., a Brazil-based construction company with operations in 30 countries, pleaded guilty in the U.S. to engaging in a widespread conspiracy to violate the anti-bribery provisions of the FCPA. As part of the plea agreement, Odebrecht agreed to pay a combined criminal penalty of up to \$4.5 billion to the U.S., Brazil, and Switzerland, subject to an on-going ability to pay analysis, to resolve charges that it bribed foreign officials, including by making payments to political parties, in Angola, Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Mozambique, Panama, Peru and Venezuela. Odebrecht also agreed to the imposition of an independent compliance monitor. Braskem S.A., a Brazil-based petrochemical company, of which Odebrecht is a controlling shareholder and whose shares trade on the New York Stock Exchange, also pleaded guilty in the U.S. to conspiracy to violate the anti-bribery provisions of the FCPA by bribing Brazilian officials to obtain contracts and other benefits. Braskem agreed to pay a combined criminal penalty of \$632 million to the U.S., Brazil and Switzerland, and to have an independent compliance monitor. More than 80 individuals have been convicted in Brazil in connection with the case.



# Foreign Corrupt Practices Act Unit

## *Petroleos de Venezuela, S.A. (PDVSA)*

During 2016, charges were unsealed in connection with an ongoing investigation into more than \$150 million in bribes to officials at PDVSA, Venezuela's state-owned oil company. Charges and guilty pleas were unsealed as to three former PDVSA officials residing in the United States, each of whom pleaded guilty in connection with the bribes they received while at PDVSA. Charges were also unsealed as to two owners of U.S.-based energy companies and one of their employees, who pleaded guilty and admitted that they conspired to pay bribes to PDVSA officials in exchange for assistance in placing their companies on bidding panels for PDVSA contracts, being awarded PDVSA contracts, and receiving payment priority for contracts already performed. Each of the defendants has agreed to forfeit their ill-gotten gains to the U.S.

## *Mexican Aviation*

Charges against individuals were unsealed in connection with a separate scheme to bribe Mexican officials to secure aviation-related contracts. Four individuals pleaded guilty to conspiring to violate the FCPA for their roles in bribing Mexican officials to secure parts and servicing contracts with Mexican government-owned customers. Two other individuals who had accepted bribes in connection with the FCPA scheme, pleaded guilty to conspiracy to launder the proceeds of the FCPA scheme.



## *VimpelCom*

February 2016 – VimpelCom Limited, the world's sixth-largest telecommunications company, and its wholly-owned Uzbek subsidiary, Unitel LLC, entered into resolutions with the Department of Justice, the Securities and Exchange Commission, and the Dutch Prosecution Service in connection with a conspiracy to make more than \$114 million in bribe payments to an Uzbek government official between 2006 and 2012 to enable them to enter and continue operating in the Uzbek telecommunications market. VimpelCom entered into a deferred prosecution agreement and Unitel pleaded guilty, agreeing to pay a global fine and disgorgement of approximately \$800 million and to the imposition of an independent compliance monitor. The Department also filed a civil complaint seeking forfeiture of more than \$850 million in accounts in Switzerland, Belgium, Luxembourg and Ireland.

# Health Care Fraud Unit

The HCF Unit employs more than 56 prosecutors focused solely on prosecuting complex health care fraud cases. HCF attorneys work in Washington, D.C., and in eight Medicare Fraud Strike Forces across the country investigating corporate entities and individuals involved in health care fraud schemes. The Strike Forces are modeled on a cross-agency collaborative approach, bringing together the investigative and analytical resources of the FBI, the Health and Human Services Office of the Inspector General, the Centers for Medicare & Medicaid Services (CMS), and other agencies, along with the prosecutorial resources of U.S. Attorney's Offices and state and local law enforcement partners. The Strike Forces use advanced data analysis to identify aberrant billing levels in health care fraud hot spots—cities with high levels of billing fraud—and target suspicious billing patterns, as well as emerging schemes and schemes that migrate from one community to another.

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## HCF Unit Statistics 2016

- 233 individuals charged
- 152 individuals convicted
- 1 corporate resolution requiring a U.S. criminal penalty of \$144 million, and a total resolution amount paid to U.S. and state authorities of \$512 million



## *National Medicare Fraud Takedown*

In 2016, the Fraud Section organized and led the largest national health care fraud takedown in history, both in terms of individuals charged and loss amount. On June 22, 2016, Attorney General Loretta E. Lynch and Department of Health and Human Services Secretary Sylvia Mathews Burwell announced a nationwide sweep led by the HCF Unit with the cooperation of the largest number of U.S. Attorney's Offices (36) and Medicaid Fraud Control Units (23) in history. The takedown resulted in charges against 301 individuals, including 60 doctors, nurses, and other licensed medical professionals, for their alleged participation in Medicare and Medicaid fraud schemes involving approximately \$900 million in false billings.

“As this takedown should make clear, health care fraud is not an abstract violation or benign offense – It is a serious crime,” said Attorney General Lynch. “The wrongdoers that we pursue in these operations seek to use public funds for private enrichment. They target real people – many of them in need of significant medical care. They promise effective cures and therapies, but they provide none. Above all, they abuse basic bonds of trust – between doctor and patient; between pharmacist and doctor; between taxpayer and government – and pervert them to their own ends. The Department of Justice is determined to continue working to ensure that the American people know that their health care system works for them – and them alone.”

# Health Care Fraud Unit

## *United States v. Philip Esformes, et al.*

In July 2016, Philip Esformes and two lieutenants were charged in connection with a \$1 billion scheme involving numerous Miami-based health care providers. According to the indictment, Esformes, who operated a network of skilled nursing homes and assisted living facilities, allegedly gained access to thousands of Medicare and Medicaid beneficiaries through the payment of kickbacks and bribes, and allegedly used this access to bill Medicare and Medicaid for medically unnecessary services. According to the indictment, the defendants and their co-conspirators, in turn, allegedly received kickbacks from other health care providers to allow those providers to bill for medically unnecessary services for these same beneficiaries. During the course of the scheme, the defendants and their co-conspirators allegedly submitted more than \$1 billion in false and fraudulent claims to the Medicare and Medicaid programs. The defendants await trial.

## *Tenet Healthcare Corp. Criminal Case*

In 2016, the Fraud Section formally established a Corporate Health Care Fraud Strike Force based in Washington, D.C. This new Corporate Strike Force has undertaken numerous active investigations. In September 2016, the Corporate Strike Force secured its first significant resolution when Tenet Healthcare Corporation, a major U.S. hospital chain, and two of its subsidiaries agreed to pay over \$512 million as part of a global resolution of criminal and civil claims relating to a scheme to defraud the United States and to pay kickbacks in exchange for patient referrals at four hospitals in Georgia and South Carolina. In addition, two of the Tenet hospitals pleaded guilty to conspiring to pay health care kickbacks and bribes, and a Tenet parent-level subsidiary entered into a non-prosecution agreement, under which it is required to cooperate with the Fraud Section's ongoing investigation and retain an independent compliance monitor.

Medicare Fraud Strike Force Locations



# Securities & Financial Fraud Unit

The SFF Unit prosecutes complex securities, commodities, and other financial fraud cases. Working closely with regulatory partners and domestic and international law enforcement agencies, the SFF Unit has tackled some of the largest frauds in the financial services industry, including sophisticated market manipulation cases such as the LIBOR and foreign exchange manipulation investigations. The SFF Unit handles a broad array of other financial fraud, such as corporate fraud, government procurement fraud, investment fraud, telemarketing fraud, insider trading, and, more recently, automotive fraud schemes. It has approximately 50 prosecutors.

## *Volkswagen*

In September 2016, a Volkswagen engineer, pleaded guilty for his role in a nearly 10-year conspiracy to defraud U.S. regulators and U.S. Volkswagen customers by implementing software specifically designed to cheat U.S. emissions tests in hundreds of thousands of Volkswagen “clean diesel” vehicles. In December 2016, a second Volkswagen engineer was charged and later arrested in January 2017 for his role in the scheme.

Subsequently, in January 2017, Volkswagen agreed to plead guilty to three felony counts as a result of its long-running scheme to import and sell approximately 590,000 diesel vehicles in the U.S. by using a defeat device to cheat on emissions tests, to pay a \$2.8 billion criminal penalty and to the imposition of an independent compliance monitor. Collectively, Volkswagen agreed to pay a total of \$4.3 billion in criminal and civil penalties. Five additional Volkswagen executives and employees were also charged for their roles in the nearly 10-year conspiracy.

## *State Street*

April 2016 – Two former senior executives of State Street Corp., one of the world’s largest asset managers and custody banks, were charged in a scheme to defraud clients through secret trading commissions on billions of dollars in securities trades. They await trial. Subsequently, in January 2017, State Street Corp. entered into a deferred prosecution agreement, agreed to pay a \$32.3 million penalty, and agreed to the imposition of an independent compliance monitor for its role in this scheme.

## *Deutsche Bank*

June 2016 – Two former Deutsche Bank senior traders, were charged in connection with the long-running manipulation of the London InterBank Offered Rate (LIBOR). They await trial. One individual has also pleaded guilty. Previously, in April 2015, Deutsche Bank AG entered into a deferred prosecution agreement and its subsidiary, DB Group Services (UK) Limited pleaded guilty, together paying \$775 million in criminal penalties.

## *HSBC*

In July 2016, two HSBC employees were charged with conspiracy to commit wire fraud for misusing information provided by a client that hired HSBC to execute a \$3.5 billion foreign exchange transaction and causing the transaction to be executed so as to spike the price to the benefit of HSBC and at the expense of the client. They await trial.



# Securities & Financial Fraud Unit

## *Takata*

In December 2016, three executives of Takata Corporation, one of the world's largest suppliers of automotive safety-related equipment, were charged with conspiracy and wire fraud for their roles in Takata's fraudulent conduct relating to sales of defective airbag inflators. Recently, in January 2017, Takata agreed to plead guilty to wire fraud as a result of its 15-year scheme to falsify information about airbag inflators to make the performance of the airbag inflators appear better than it actually was, including by omitting that, in some instances, inflators ruptured during testing. Even after the inflators began to experience repeated problems in the field, Takata executives continued to withhold the true and accurate inflator test information and data from their customers. Takata agreed to pay \$1 billion in criminal penalties, to retain an independent compliance monitor and to cooperate fully with the department's ongoing investigation, including its investigation of individuals.

## *United States v. Jack Kachar*

In September 2016, the former chairman and CEO of a multinational pharmaceutical company was charged in connection with a fraud scheme that caused over \$100 million in losses and led to the collapse and failure of Westernbank Puerto Rico, once one of Puerto Rico's largest banks. He awaits trial.

## *Flash Crash*

In November 2016, a British futures trader, pleaded guilty to U.S. fraud and spoofing charges in connection with an over five-year fraud scheme, including his role in the May 6, 2010, "Flash Crash," when the Dow Jones Industrial Average plunged 600 points in five minutes. The trader placed thousands of orders that he did not intend to trade, or "spoof orders," to create the false appearance of substantial supply and demand and to induce other market participants to trade futures contracts at prices and quantities they normally would not have traded. By doing so, he obtained at least \$12.8 million in illicit gains. The trader unsuccessfully fought extradition from the United Kingdom prior to pleading guilty.

## *GDMA*

In 2016, the Fraud Section charged four individuals, including a U.S. Navy Admiral, in connection with a massive fraud and corruption scheme perpetrated by the owner and Chief Executive of Glenn Defense Marine Asia, a Singapore-based defense contracting firm, and his conspirators in the Armed Forces. These charges bring to 16 the number of people charged in the matter. In 2016, seven individuals were sentenced to prison terms ranging from 27 months to 12 years. In addition, the Section secured the extradition of two additional individuals from Singapore who were charged in the scheme.

## **SFF Unit Statistics 2016**

- 52 individuals charged
- 34 individuals convicted
- 1 corporate resolution resulting in \$1.6 million in U.S. criminal penalties<sup>2</sup>

<sup>2</sup> Amounts from Volkswagen, Takata, and State Street are not included, as they occurred in 2017.

# Strategy, Policy & Training Unit

The SPT Unit focuses on combatting national and international economic crimes by overseeing and developing strategic enforcement, policy, and training initiatives to strengthen the Section's ability to prosecute health care fraud, financial fraud, and foreign bribery.

Throughout 2016, the SPT Unit partnered with the Section's management and other units in reviewing prosecutorial decisions, advising Department leadership on anti-fraud legislation and policies, coordinating national and international law enforcement cooperation and information-sharing in the public and private sectors, assisting prosecutors to evaluate corporate compliance programs and monitorships, and occasionally assisting in trial and appellate litigation.

During 2016, the Section focused on, among other things:

- Encouraging greater voluntary self-disclosure of FCPA violations;
- Reviewing the effectiveness of corporate compliance programs and monitorships;
- Expanding the resources dedicated to the investigation and prosecution of individual and corporate healthcare fraud;
- Developing a systemic method to review qui tam complaints for investigative leads in financial fraud and health care fraud cases; and,
- Conducting targeted training programs to strengthen attorneys' investigation, prosecution, and trial skills.



For example, the compliance consultant in the SPT Unit provided expert guidance:

- By consulting with prosecutors in approximately 60 matters in their pre-resolution phase and approximately 20 matters in their post-resolution phase;
- By working with approximately 10 monitors on effective monitorship practices and procedures; and,
- By conducting four internal and four external training sessions on corporate compliance and monitor practices.

Additionally, the SPT Unit responded to more than 100 requests for changes to legislation, the U.S. Sentencing Guidelines, the Federal Rules of Criminal Procedure, and DOJ policies; and responded to more than 500 fraud complaints from individuals across the nation.

The SPT Unit also coordinated the Section's training and speaking presentations, which included more than 70 internal and external training sessions, and more than 80 public speaking engagements.

The SPT Unit has 8 attorneys.

# Strategy, Policy & Training Unit

## *International Cooperation and the London Detail*

Our international partnerships with foreign authorities led to greater cross-border cooperation in combatting numerous complex, multi-national financial fraud and corruption schemes. For example, the historic resolutions with Odebrecht and Braskem involved coordination with Brazil and Switzerland for bribe payments made in Angola, Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Mozambique, Panama, Peru and Venezuela. Similarly, the Section's foreign exchange and interest rate manipulation prosecutions involved careful coordination with, among others, Japan, Switzerland, and the United Kingdom. Meanwhile, Germany has provided invaluable assistance in connection with the investigation of Volkswagen and individuals charged in the company's long-running scheme to sell diesel vehicles in the U.S. by using a defeat device to cheat on emissions tests.

The Section will strengthen its collaboration with England by assigning a Fraud Section prosecutor to the U.K.'s Financial Conduct Authority (FCA) and the Serious Fraud Office (SFO). The recently announced position builds on the cooperation between the Section and FCA and SFO. The detailee will work for two years in London, first with the FCA and then with the SFO. The attorney will return to the Section in Washington, D.C., to investigate and prosecute transnational economic crimes and to provide additional training to other Fraud Section prosecutors on the best practices and experiences learned at the FCA and the SFO.

## *Fraud Section - November 2016*

