

No. 85-03

Date: January 20, 1987(1)

Review Procedure Releases

The U.S. Department of Justice received a review request from an American business entity attempting to resolve a claim against a foreign country. The entity seeks to negotiate a settlement of the claim, but has been unable to identify the agencies or officials in the foreign country most responsible for and capable of settling the claim.

In an effort to locate the appropriate agency or official, the American business proposes to retain the services of an individual in the foreign country to act as its agent in this matter. The proposed agent was, at one time, an official of the foreign government, but presently holds no government position. The proposed agent is not an official of a political party or a candidate for political office in the foreign country.

The American business intends to instruct the proposed agent: (1) to identify the agencies and officials of the foreign country ultimately responsible for negotiating a settlement of the claim; and (2) to inform that individual or agency of the business's interest in the claim, the desire of the business to discuss settlement of the claim, and the possibility that such a settlement could encompass other obligations and disputes among the foreign country and others of allied interest. The business would compensate the agent at a rate of \$40 (U.S.) per hour, plus expenses, up to a limit of \$5,000.

The proposed agent will enter into a written agreement with the American business entity specifying, among other things, that the agent: (1) is not presently an official of the foreign country's government or an official of a political party or candidate for political office in the foreign country; (2) understands the prohibitions of the Foreign Corrupt Practices Act and will abide by them; (3) will not pay any portion of his compensation from the American business entity to any official of the foreign government or to any official of a political party or any candidate for political office in the foreign country; (4) will perform only those functions specifically authorized by the American business entity; and (5) will be compensated at a rate of \$40 (U.S. per hour, plus expenses, not to exceed \$5,000).

Based on all the facts and circumstances disclosed to us by the requester, the Department presently does not intend to take an enforcement action based on the requester's proposed conduct and contractual relationship with the agent.

The FCPA Review Letter and this Release have no binding application to any party which did not join in the request and can be relied upon by the requesting party only to the extent that the disclosure of the facts and circumstances in the request is accurate and complete and continues to accurately and completely reflect such facts and circumstances.

1. Action in this matter was taken in December 1985. This release, however, was not published until January 1987.