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SEC Charges Former Software Executive With FCPA Violations

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Washington D.C., Aug. 12, 2015 —

The Securities and Exchange Commission today announced that a former executive at a worldwide software manufacturer has agreed to settle charges that he violated the Foreign Corrupt Practices Act (FCPA) by bribing Panamanian government officials through an intermediary to procure software license sales.

An SEC investigation found that Vicente E. Garcia, the former vice president of global and strategic accounts for SAP SE, orchestrated a scheme to pay \$145,000 in bribes to one government official and promised to pay two others in order to obtain four contracts to sell SAP software to the Panamanian government. He essentially caused SAP, which is headquartered in Germany and executes most of its sales through a network of worldwide corporate partners, to sell software to a partner in Panama at discounts of up to 82 percent. The excessive discounts enabled the partner to create a slush fund from its excessive earnings on the other end of the sales and tap that money to pay the bribes to Panamanian government officials so SAP could sell the software. Garcia, who lives in Miami, also received kickbacks from the slush fund into his bank account.

In a parallel action, the U.S. Department of Justice today announced a criminal action against Garcia.

“Garcia attempted to avoid detection by arranging large, illegitimate discounts to a corporate partner in order to generate a cash pot to bribe government officials and win business for SAP,” said Kara Brockmeyer, Chief of the SEC Enforcement Division’s FCPA Unit.

According to the SEC’s order instituting a settled administrative proceeding:

- The scheme lasted from 2009 to 2013.
- Garcia circumvented SAP’s internal controls by submitting various approval forms to SAP that falsified the reasons for the excessive discounts to the local partner.
- Garcia used his SAP e-mail account and his personal e-mail account to communicate details of the bribery scheme and even identify the government officials and intended monetary amounts.

- In an e-mail to one government official, Garcia attached a letter on SAP letterhead detailing fictional meetings in Mexico as requested by the official in order to justify a trip there on false pretenses. The next day, Garcia sent a subsequent e-mail asking, *“Any news ...? Was the document OK for him? Can you ask him to finalize a deal for us in Feb-March, I need between \$5 and \$10 million.”*

The SEC’s order finds that Garcia violated the anti-bribery and internal controls provisions of the Securities Exchange Act of 1934. Garcia consented to the entry of the cease-and-desist order and agreed to pay disgorgement of \$85,965, which is the total amount of kickbacks he received, plus prejudgment interest of \$6,430 for a total of \$92,395.

The SEC’s continuing investigation is being conducted by Ansu Banerjee and supervised by Alka Patel. The SEC appreciates the assistance of the U.S. Department of Justice, U.S. Attorney’s Office for the Northern District of California, and Federal Bureau of Investigation.

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