

June 16, 2016

## Foreign Corrupt Practices Act Alert

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### **Louis Berger Group, Inc. Sues Former Executive for Authorizing Improper Payments That Resulted in Company Paying \$17.1 Million Penalty in FCPA Settlement**

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The Louis Berger Group, Inc. (“LBG”) filed a complaint in New Jersey state court on June 10, 2016 against a former Senior Vice President of the company, Richard Hirsch, alleging that Hirsch violated his fiduciary duties to the company by authorizing improper payments in violation of the Foreign Corrupt Practices Act (“FCPA”) in Vietnam and Indonesia from 1999-2004. At the time of the payments, Hirsch was the senior LBG employee in Indonesia, the Philippines and Vietnam. The payments were the subject of an FCPA investigation by the Department of Justice (“DOJ”) and resulted in, among other things, a July 2015 settlement in which LBG paid a \$17.1 million monetary penalty and agreed to retain a compliance monitor for three years. LBG also was subject to a period of debarment by the World Bank.

LBG’s complaint alleges that Hirsch’s conduct violated both the FCPA and company policies. LBG seeks to recover the financial penalty paid by the company, the fees incurred in connection with investigating the improper payments and resolving the matter with the DOJ, damages relating to alleged harm to LBG’s reputation and business relationships, and payments that were advanced to Hirsch to cover his legal fees and expenses in connection with the DOJ investigation. According to the complaint, LBG terminated Hirsch’s employment in 2011, after he had declined to cooperate with the company’s internal investigation. Hirsch pleaded guilty to FCPA violations in July 2015, and is expected to be sentenced next month.

Recent pronouncements and policy initiatives by the DOJ emphasizing its efforts to hold individuals accountable for corporate misdeeds, including under the FCPA, have provided sobering reminders to business executives of the need for rigorous compliance and the consequences of missteps. Prior Alerts have addressed the implications of these policies and the prospects that individuals and employers could

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face not only potential claims or prosecution by governmental authorities, but also follow-on civil litigation, including shareholder class actions and derivative actions. The LBG complaint highlights yet another avenue of potential exposure for individuals involved in improper business activities. Given the high costs of many FCPA-related investigations and the large fines and potential collateral consequences imposed in many FCPA investigations, claims such as LBG's could expose business executives to substantial liability.

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