

Securities Litigation Alert: GlaxoSmithKline and Five Executives Convicted of Bribery in China

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On Friday, September 19, 2014, a Chinese court found pharmaceutical giant GlaxoSmithKline guilty of bribing doctors and hospitals in order to increase sales of the company's products in China. Among other things, the company was charged with using travel agencies and pharmaceutical industry groups to channel bribes to recipients. The company was fined 3 billion yuan (\$489 million) – the largest corporate penalty ever imposed by Chinese authorities. For comparison, the three most expensive settlements to date under the U.S. Foreign Corrupt Practices Act (FCPA) include Siemens (\$800 million), KBR/Halliburton (\$579 million) and BAE Systems (\$400 million).

The court also convicted GlaxoSmithKline's former country manager and four other executives who "actively organized, pushed forward and implemented sales with bribery."¹ The individuals each received suspended sentences of between two to three years in prison; these reduced sentences reflected the court's conclusion that they "confessed the facts truthfully and were considered to have given themselves up."²

The GlaxoSmithKline case highlights China's increased emphasis on enforcing anti-corruption laws against Western companies and individuals who offer or pay bribes. China's anti-corruption efforts have historically focused on the government officials who solicit or receive bribes. For example, in January 2013, China's president, Xi Jinping, announced a new campaign to crack down on corruption by both "tigers" (*i.e.*, powerful officials) and "flies" (*i.e.*, low-level bureaucrats). The GlaxoSmithKline convictions demonstrate that China has moved beyond its historical focus, and that companies must be mindful of local anti-corruption laws in addition to the FCPA. As a practical matter, this means that companies doing business in China should have policies that prohibit bribes not only to government officials, but also to parties in the private sector.

The case is also notable for the speed with which the Chinese authorities investigated, tried and convicted the company and its executives. Chinese officials announced an investigation of GlaxoSmithKline executives in late June 2013³ and announced the conviction 15 months later.

GlaxoSmithKline remains under investigation by the DOJ, SEC and the U.K. Serious Fraud Office.

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¹ "GSK China hit with record fine," *Xinhua*, Sept. 19, 2014, http://news.xinhuanet.com/english/china/2014-09/19/c_133656449.htm.

² *Id.*

³ Louise Armitstead, "Chinese police probe GSK managers for 'economic crimes,'" *The Telegraph*, June 30, 2013, <http://www.telegraph.co.uk/finance/newsbysector/pharmaceuticalsandchemicals/10151412/Chinese-police-probe-GSK-managers-for-economic-crimes.html>.