



## Month in a Minute: June 2024

Hughes Hubbard's anti-corruption "Month in a Minute" offers a quick look-back at the biggest foreign corruption-related developments from the prior month. The Month in a Minute is intended to provide a quick snapshot of the latest news and developments. We hope you find it a useful and perhaps even enjoyable resource.

Highlights from June 2024 include the denial of an extradition appeal for an ex-Goldman Sachs executive, the recovery and return of additional 1MDB funds, and a guilty plea related to the Petrobras bribery scheme.

### Ex-Goldman Sachs Executive can Extradited to face FCPA Charges

On June 7, 2024, Justice Charles Bourne of the High Court of England and Wales denied the extradition appeal of former Goldman Sachs Executive Director Asante Kwaku Berko, and found that he can be extradited to the U.S. to face FCPA charges. Berko, a dual US-Ghanaian citizen, faces two counts of violating the FCPA and one count of conspiracy to commit money laundering for his role in paying more than \$700,000 in bribes to Ghanaian officials in exchange for securing a power plant project for a Goldman client, Turkish energy company Aksa Enerji ("Aksa"). From 2014 to 2017, Berko and his co-conspirators allegedly paid bribes to Ghanaian officials and then received reimbursement for those payments by issuing false invoices to Aksa for "consultancy services."

Appealing from a June 29, 2023, extradition order, Berko argued that the charges were not extraditable offenses and that extradition was inappropriate because most of the alleged acts took place in London. The High Court of England and Wales rejected these arguments with respect to the FCPA and money laundering charges, finding that, while Berko was based in the UK during the scheme, the misconduct was global in nature and U.S. prosecutors had established jurisdiction. Berko's appeal was partially successful, however, with the court ruling that other charges against Berko, related to his failure to declare foreign bank accounts to US authorities, were not extraditable as they had no equivalent UK criminal offense. Nonetheless, the court's rejection of Berko's appeal with respect to the FCPA and money laundering violations will still subject him to extradition.

Previously, in June 2021, Berko resolved a lawsuit brought against him by the SEC stemming from the same conduct. As part of his resolution with the SEC, Berko agreed, without admitting or denying the allegations, to disgorge \$275,000 and pay \$54,000 in prejudgment interest. He was arrested, pursuant to a sealed indictment, nearly 18 months later, after arriving at Heathrow airport.

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## U.S. to Recover and Return to Malaysia an Additional \$100 Million Linked to the 1MDB Scheme

On June 26, 2024, the U.S. Department of Justice announced that it had reached an agreement with Jho Low, the fugitive Malaysian businessman and alleged mastermind of the 1MDB scheme, together with the members of his family and certain trust entities Low established, for the return of \$100 million in assets allegedly linked to the scheme to embezzle funds from 1MDB, the now- insolvent Malaysian sovereign development and investment fund. The agreement resolves two civil forfeiture cases brought against assets allegedly associated with the 1MDB scheme. Under the agreement, Low and the other parties will forfeit a luxury apartment in Paris and artworks by Andy Warhol and Claude Monet located in Switzerland, all purchased by Low for total of approximately \$35 million. Additionally, Low agreed to cooperate in the transfer of property and cash located in Hong Kong, Singapore, and Switzerland, which is linked to 1MDB funds and has a combined value of approximately \$67 million, to the government of Malaysia.

The agreement follows previous settlements through which U.S. authorities have recovered assets linked to 1MDB funds from Low. In total, the U.S. has returned more than \$1.4 billion in recovered funds to Malaysia since U.S. authorities began investigating the 1MDB scheme in 2015.

Low faces criminal charges in the Eastern District of New York for conspiring to launder billions of dollars allegedly embezzled in the 1MDB scheme and for conspiring to violate the FCPA by paying bribes to officials in Malaysia and the United Arab Emirates. He is also facing charges in the District of Columbia for conspiring to make and conceal campaign contributions in connection with the 2012 U.S. presidential elections. The recent agreement does not affect these cases or any other potential criminal prosecutions.

## Connecticut Oil Trader Pleads Guilty in Connection with Petrobras Scheme

On June 24, 2024, Connecticut oil trader and business owner Gary Oztemel pleaded guilty to one count of engaging in a monetary transaction involving criminally derived property. In an August 29, 2023 superseding indictment, Oztemel was charged, along with his brother, Glenn Oztemel, and Brazilian oil trader, Eduardo Innecco, with FCPA and money laundering violations for allegedly bribing officials at Petrobras, Brazil's state-owned energy company, to assist a Connecticut-based commodity trading company in winning lucrative contracts with Petrobras. In December 2023, Freepoint Commodities LLC agreed to pay more than \$98 million to resolve charges by the DOJ and CFTC in connection with the same scheme.

Per the indictment, Gary Oztemel used two of his companies, Oil Trade & Transport ("OTT") and Petro Trade Services, to help his brother, who joined Freepoint in 2012 from another commodity trading company, obtain confidential information from Petrobras officials. The information allegedly was used to assist Freepoint in winning and retaining business. To carry out this scheme, Gary Oztemel, his brother and Innecco facilitated multiple "back-to-back" trades among Petrobras, OTT, and two unnamed trading companies, in which OTT purchased oil from Petrobras and sold it to the trading companies at a higher price. Gary Oztemel caused OTT to transmit the profits from these trades from U.S. bank accounts to bank accounts in Switzerland, from which Innecco paid bribes to Petrobras officials.

As part of a plea agreement, Gary Oztemel admitted to directing his company, Petro Trade Services, to transfer \$11,000 to a U.S. bank account he controlled, concealing the proceeds of the foreign bribery scheme. Gary Oztemel agreed to forfeit \$301,575. His sentencing is scheduled for September 16, 2024. The criminal cases against Glenn Oztemel and Edouard Innecco remain ongoing, with Glenn Oztemel having pleaded not guilty.

## FACT OF THE MONTH

On June 4, 1876, the Transcontinental Express completed its journey on the transcontinental railroad, arriving in San Francisco approximately 83 hours after leaving New York City. While 83 hours may seem like a long time by modern standards, at the time, it provided a much quicker alternative when compared with traveling by horse and wagon or ship. This monumental feat and the construction of the

transcontinental railroad forever changed the American landscape and the ability of individuals to traverse from coast to coast.