



Wade Weems Analyzes Herbalife FCPA Settlement with Anti-Corruption Report

September 18, 2020

Publication: ***Anti-Corruption Report***

Herbalife Nutrition Ltd. has settled with the U.S. Securities and Exchange Commission (SEC) and Department of Justice (DOJ) after a years-long investigation into Foreign Corrupt Practices Act (FCPA) violations in China. Kobre & Kim's Wade Weems, a Shanghai-based former DOJ prosecutor, analyzed the settlement with the *Anti-Corruption Report*.

According to the investigation, Herbalife was accused of allowing corrupt payments to Chinese officials in order to gain direct selling licenses. However, they did cooperate with the U.S. government; had they not, Weems said, the investigation could have "taken even longer, could have been more contentious and possibly more costly" to the company. Cooperation can help narrow the FCPA investigation by focusing it "on a specific set of allegations rather than a scenario where the government conducts a sprawling investigation on their own that can uncover new allegations," Weems explained.

Weems does not believe the settlement and deferred prosecution agreement will be fully deterrent, however. This is because "these payments were meant to overcome a market barrier imposed by a foreign government," Weems argued. The root problem is a systemic one: "Where there are trade barriers at the heart of the case, and the criminal conduct was aimed at overcoming those in order to gain market access, it is my view that enforcement actions like this will have limitations in terms of deterrent effect."

[Click here to read the full article.](#)