

Insights



William McGovern on FCPA Violations, Market Manipulation, and Differing U.S.-China Bribery Enforcement

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Kobre & Kim's William McGovern weighed in on the alleged FCPA violations by two former executives of the Chinese subsidiary of Herbalife with the Anti-Corruption Report, stressing the dangers present when navigating between two different cultural and legal regimes.

McGovern observed that bribery cases "seem to be within DOJ's priorities right now, particularly in China," which is why Herbalife was a target. The multilevel marketing company's problems stem in part from ambiguous and perilous situation of giving cash gifts to officials because where "the line between appropriate and inappropriate amounts is drawn is not really clear." In addition, Herbalife was unable to properly handle the "mismatch between how Chinese law views multilevel marketing and how U.S. law views multilevel marketing," McGovern explained.

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