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Managing the Risks of a Global Business: Case Studies in FCPA Compliance

Simeon M. Kriesberg

Mayer Brown LLP, Washington, D.C.

202/263-3214

skriesberg@mayerbrown.com

Thomas R. Fox

Houston, Texas

832/744-0264

tfox@tfoxlaw.com

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1. Generation X Corporation, incorporated in Delaware, is bidding on a major power plant project for the Province of Buenos Aires in Argentina. The provincial Governor has expressed an interest in traveling to the United States to inspect power plants that Gen X has built. While in the United States, the Governor is eager to attend a World Wrestling Federation match at Madison Square Garden. The Governor's husband is interested in seeing the Broadway revival of "Evita." The Governor's five children are excited at the possibility of visiting the Trolley Museum in Kingston, New York. Can Gen X pay for these activities?

2. The Acme Wind Turbine Company ("AWT") is a joint venture in which Acme Inc. holds a 60 percent interest. AWT manufactures its products in Thailand. All is going well, except that the Thai authorities have decided to impose a potentially crippling sales tax on wind turbines manufactured for exportation; AWT is the only such wind turbine manufacturer in the country. Fortunately, help is available. The manager of the AWT manufacturing plant has a good friend in the Ministry of Finance, and believes that a discreet remunerative arrangement could be worked out that would lead to the granting of a tax exemption to AWT. What should the manager be advised?

3. **The British parent of Doctors Without Penmanship USA has asked that DWP USA launch a business to outsource medical recordkeeping services. DWP USA would offer to outsource to India the inputting and maintenance of U.S. hospitals' medical records. The DWP USA team makes contact with Dr. Subramanian, head of the medical licensing authority of Mumbai, who would need to approve any outsourcing arrangement in that city. He suggests that, as a goodwill gesture, DWP USA make a donation to a charity of which Dr. Subramanian's daughter is president. Would this donation pose any danger under the FCPA?**

4. Drilling Rigs Ltd. is an oil exploration company recently listed on NASDAQ. As DRL's General Counsel, you have worked to upgrade the company's FCPA compliance program, particularly in the run-up to the public listing. With the plunge in the price of oil, however, and the general economic weakness, the President of DRL has to make some budget cuts, and every business and staff department is expected to share in the sacrifice. What steps should you take to maintain an effective FCPA compliance program with more limited resources?

5. Due to consumer concerns over the safety of Chinese-origin toys, a U.S. distributor has concluded that it would be best to shift sourcing for the U.S. market from China to Mexico, thereby also taking advantage of NAFTA tariff preferences. As the distributor's General Manager develops the business plan, he learns from the prospective supplier, Toys Factory, S.A. de C.V., that the Mexican customs officials at the port of exportation routinely expect to receive one bottle of Chablis or one cell phone (at the officials' option) for each export permit they issue. Should the General Manager go forward on this basis? If so, can the distributor keep the costs of these "gifts" off the books?