



Siemens' Bribery Scandal – Peter Solmssen

[00:00:07] On today's podcast, I'm speaking with a lawyer with extraordinary corporate and compliance experience, including as General Counsel for General Electric's Health Care Division, and now, in his current role as Executive Vice President and General Counsel at AIG. But we'll be talking today about his six years as General Counsel at Siemens, beginning right after that company's international bribery case wrapped up. Siemens, as many of you will know, continues to hold the record for the largest penalties in an international bribery case. They paid a total of US\$1.6 billion in fines, penalties and disgorgement of profits to U.S. and German authorities. But I'll let our guest, Peter Solmssen, tell that story. Thank you for joining me, Peter.

[00:00:47] Thank you for having me.

[00:00:49] The Siemens story was a real turning point for the compliance community, so why don't you launch in and describe it?

[00:00:55] I think the most important lesson from the Siemens case is that, after we cleaned up, business got better, and you don't hear that very often. It's something I think we knew at GE, and we certainly know at AIG, that there is no opposition between doing it the right way in business. Where it all started at Siemens was — and I talked to people who were there at the times after the war — the company's major markets were either destroyed or closed to it, so it went to more exotic locations and felt that, in order to succeed in those places, it had to follow what it thought were local customs and pay bribes. That was, at least, their expressed reasoning for starting, and they didn't stop quickly enough. At least, that's what the managers, now in their 90s, will tell you.

[00:01:42] The idea there is that, from the end of World War II until this story broke, this was standard operating procedure?

[00:01:50] I don't think they would call it that, but it was certainly widespread, and they thought it was necessary and then became sort of addicted to it. I think once you build it into your business model, you're afraid to stop. What I heard — quietly, behind the scenes when I started at Siemens — was that, if we stop paying bribes, we could expect revenues to drop by 30 percent. That didn't happen, obviously. After we cleaned up, revenues went up.

[00:02:15] Before we jump into that, because I think it's a pretty optimistic story in the end, can you describe the nature of the misconduct? Bribe is a pretty broad term, and it can mean everything from the small-dollar grease payments to get things through customs to really substantial bribes to heads of state. Was it one or the other or the whole array?

[00:02:37] It was all of the above. In fact, at one point, when they were trying to disguise the payments, one of the tactics was to withdraw cash from one bank in the central square in Munich and carry it in a suitcase across into the office of another bank and deposit it, thereby breaking the chain of evidence. One of the people whose job it was to carry the cash put in for a workplace injury because he hurt his back carrying that much cash. It was really done in a very organized way — large amounts of money — and it ranged from bribing purchasing managers at a low level to, we believe, money going to a high places: politicians and government officials all around the world.

[00:03:19] With that backdrop, cast your mind back, if you can, to your first day on the job. How do you begin with a situation like that? Siemens' reputation had been battered in the press and in the courts, and you pull up in Munich for your first day on the job. What happens next?

[00:03:35] The first thing I wanted to do was to try and get those who wanted to help us in the company. We had 400,000 employees. We had to get the people in the company behind the changes we needed to make. I thought the most effective tool that we could use would be an amnesty. We simply said everybody in the company below managing director level — everybody in the company who was willing to come forward and tell us what they knew would be protected as best we could. Obviously, we wouldn't discipline them or fire them or do anything like that, and we had to be really careful how we said this: We'd try and help them with the prosecutors. That worked out extremely well. People who had been forgetful or didn't remember anything about this sort of thing, once the amnesty was announced, marched in and told our investigators everything they knew, and that helped us wind things up fairly quickly. It remains, I think, the Siemens case, one of the quickest resolutions in history. We did in about 18 months. Usually these things can take five to seven years. Even though the numbers are staggering, the United States Justice Department recommended fines far below what the sentencing guidelines would have called for. The key to that was the amnesty, which we, of course, discussed with an SEC justice and German prosecutors before we did it. That led us to the payment streams much faster than we could have gotten on our own. The first thing to do was to figure out was how to do an amnesty and how to use information that would be forthcoming. That also gave people a chance to come around to our side, and it was really very emotional.

[00:05:08] I can see the sense in that. Clearly, you got the information you needed faster. I'm curious, really. Two questions: One is what impact that had on morale at Siemens, but then the other one is, in your public-facing role — Siemens had over 300,000 employees at the time — how do you respond to people who say, "You can't clean up a corporation with a handful of prosecutions. If the same people are there, the same misconduct is going to continue."

[00:05:37] First of all, we had a CEO who was very clear that this was his first priority. He was going to clean things up. Secondly, he invited employees to be part of that. He didn't say, "I'm doing this to you," but, "This is what we need to do to save this company." And that was very powerful. As time went on, we made the pitch, which was true, that we were getting back to

our core values. If you look at the memoirs of Werner von Siemens, he even talks about bribery since the 1860s, not the 1960s, and he says he wouldn't pay bribes. Those are the core values of Siemens going forward. We just lost our way. With respect to the amnesty, the people who were offered amnesty and needed amnesty were incredibly relieved. They didn't like paying bribes, and they were incredibly pleased to be relieved of that burden and to be able to purge themselves. I had 50-year-old men in tears in my office when they realized that they had the opportunity to start all over again.

[00:06:32] I think that's such an important point, because there are so many people who engage in this conduct and then, after the fact, say there was no question at all that they knew what they were doing was wrong. But it is an addiction. You have addressed this issue before, but you talked at the time about how you felt about the business people who said, "I did this for the company. Everything that I did was to advance the interests of the company." How do you respond to that?

[00:06:59] We had to take that on very directly, very early, that sort of excuse: "Well, I never put any money in my own pocket. I only did it for the company." I would just say very publicly and in the press, that's simply not true because if you made your numbers, if you got your bonuses and you got whatever benefits that accrue to be successful through bribery, of course you're putting money in your own party. You were benefiting from the bribery, and at the same time, you knew you were exposing the company to huge risks. So don't tell me you were doing the company any favors, and don't tell me you weren't putting money in your own pocket. That was pretty controversial in some parts of the company because people didn't want to think they were really doing the wrong thing when, in fact, they were. Eventually, people came around to realizing that what I was saying was right. Interestingly, the greatest support we got was from the countries where this goes on — places where, sadly, bribery is pretty widespread, and our own people were so pleased to be part of the solution and not to be required to pay bribes. They have a sense of nationalism and wanted their countries to get better, and we were contributing to that. The real resistance from Germany, not from places like Brazil or China.

[00:08:07] That distinction between headquarters and the front lines of sales is often the case. Did you, as a company, have to do any coaching of the business team about, "If you don't have recourse to bribes anymore, how are you going to be an effective salesperson on behalf of the company?"

[00:08:25] It's interesting. We did get some pushback: "What do you want us to do if we can't make our numbers?" To which we'd say, "These are big markets out there." In most of them, our competitors are G.E. or another big company. It can't be that we only get the dirty business and they get the clean business. Yes, we want you to walk away from dirty business. But the fact of the matter, what Peter Loescher and I knew from experience was, you say no, show some discipline, show some character and you still get the deal. That's what our people didn't have the support, the discipline, the backup to be able to say or to feel they could say, or worse than that, they were being pressured from headquarters to pay bribes. But once we turned it

around and said, [00:09:05] "You (?), [1.5] and we'll support you when you don't, and have courage and discipline, you'll get the revenues anyway." And that turned out to be the truth. The years that we were there were the most profitable years in Siemens' history. Siemens' sales force and Siemens' management learned to have confidence in themselves.

[00:09:21] Did you give the business guys any relief from their numbers initially, or did you really find you didn't have to do that?

[00:09:27] No, we really didn't. It wasn't necessary. It was not really asked for. There was plenty of business out there. If we lost business, it was usually because of price or technical questions. I know of deals that we lost because other people were paying bribes, but it wasn't a material amount of business.

[00:09:43] Were there any countries you had to just walk away from? I know this is always a question asked in the compliance community. Are there some countries that are just in that "too-hard-to-do" category, where you won't even invest the energy to explore opportunities, or do you — you certainly don't have to name them — but did you not have any of those?

[00:10:01] No, no countries. There are some business segments where it wasn't worth having the infrastructure, but that's for sales generally. There are some businesses where the margins are so slim that having the right infrastructure, controllership, compliance, quality assurance, whatever you want to call it, we just couldn't make enough money on the ground. But I don't attribute that to compliance. I attribute that to tough markets. It wasn't because of compliance.

[00:10:27] Right after you joined Siemens and the central case was settled, Siemens seemed to be everywhere all at once — on the speaking circuits, talking at conferences, sharing your experience. How important do you think that was to restoring the company's reputation?

[00:10:45] Very important. Perception lags reality, and I suspect, even to this day, there are people that think Siemens is a corrupt company. It was very important we get out and tell our story about the things that we had done. One of the things that we were most worried about, frankly, was not penalties for paying bribes but being debarred. A good 40 percent of our business was with the governments of one sort or another, and in many parts of the world, if you have been convicted of paying bribes, you're debarred from public contracts.

[00:11:14] You can't even compete for government contracts in those countries.

[00:11:18] Exactly. That was, as far as I was concerned, the greatest risk to us. Showing that we were a different company, showing that we had changed our ways, and showing that we were committed to helping others do that. One of things we pushed very hard was trying to organize the market participants in the markets where we did business to cooperate with us, to drive corruption out of the markets where we were competing — so-called collective action. That can be very successful. We also wanted to support, fund and help coach those who were trying to make those markets better. I'd say we were everywhere. We were trying very hard to be everywhere. It changed our perception in the marketplace.

[00:12:03] There was a period of time where I think there was a Siemens keynote at every compliance conference.

[00:12:08] We wanted to tell our story. We thought it was a great story.

[00:12:10] You said at the outset that Siemens just lost its way somewhere at the end of the last century. After the war and before this story broke is a long period of time. If you had the opportunity to give some advice to the 1980s Siemens, what would that be? I'm sorry if that's an obvious question, but apart from, "Don't pay bribes," what advice in hindsight do you have for them?

[00:12:34] Have the courage of the founder, Werner von Siemens. Stick to your principles. Stick to what you believe in. Have the courage of your convictions. I think that Siemens always had great products. When I was at GE, they were our biggest competitor, and we could see they were paying bribes, and we couldn't figure out why they were doing it. They had great products. They had great customer loyalty. They didn't need to pay bribes. We were perplexed. I think that's what I would say, too. I said it at the time, and I think if I been inside Siemens at the time, I'd say, "We don't need to do this. It's expensive and it's dangerous."

[00:13:06] When we first met in Munich, you said, "If we had spent the same amount of money that we spent on bribes on research and development instead, we would have had a fantastic product" — I'm paraphrasing you. I've used that quote many times since then, and I think it's a telling point on the whole. I'm not suggesting this of all Siemens products, but on the whole, a good product at a competitive price will carry the day, and it's the shoddy products that have to be fobbed off with bribes.

[00:13:33] Absolutely right. In fact, I was quoting somebody else, a guy who had been in our communications business. Siemens had a huge communications business. He said, "If we had the 600 million dollars — or euros, I guess — that our business spent on bribes, we would still have a coms business."

[00:13:49] I know that you need to get back to things, and I just want to add that you are one of the very few lawyers that I know who found a life outside the law — maybe a life alongside the law — with your organic farm in New Mexico. I will let you go, but thank you so much for your time, Peter.

[00:14:04] Thank you.