

2nd National Anti-Money Laundering Conference

7 October, 2010
Holiday Inn, Suva, Fiji.

- Topic:** **Corruption & Bribery**
- Speaker:** **Ms. Henrietta Matakitoga**
- Organisation:** **Fiji Independent Commission Against Corruption**
- Position:** **Legal Officer**

Conference Theme:
"Investigating Money Laundering"

Organized by: Fiji Financial Intelligence Unit



Bribery and Corruption in Fiji



In Brief

- Bribery and corruption under the Penal Code, Crimes Decree and the Prevention of Bribery Promulgation.
- Nature of a bribe
- Persons liable for bribery offence
- Bribery and society
- Bribery & corruption cases by FICAC.

Corruption and Bribery Offences in Fiji

- **Penal Code ('PC')**
 - Section 106 - 'Official Corruption'
 - Section 108 'Public Officer receiving Property to show Favour'
- **Crimes Decree 2009 ('CD')**
 - Section 134 – Bribery of public officials
 - *Section 135 - Receiving a bribe*
 - *Section 136 – Corrupting benefits given to, or received by, a public official*
 - *Section 137 - Receiving a corrupting benefit*

Corruption and Bribery Offences in Fiji

- **Prevention of Bribery Promulgation ('POBP')**

2007

- Section 3 - Soliciting or accepting an advantage
- Section 4 - Bribery
- Section 5 - Bribery for giving assistance, etc, in regards to contracts
- Section 6 - Bribery for procuring withdrawal for tenders
- Section 7 - Bribery in relation to auctions
- Section 8 - Bribery of public servants by persons having dealings with public bodies
- Section 9 - Corrupt transactions with agents

Bribe?

- ‘property or benefit of any kind’ [section 106 PC and section 133 CD]
- ‘advantage’ [section 2 POBP] which includes
 - any gift, loan, fee, reward or commission consisting of money, or of any valuable security or of other property or interest in a property of any description;

Persons who may commit Bribe or Corruption

- Public Officer
 - Is one “*who discharges any duty in the discharge of which the public are interested*” (R v Whitaker [1914] 3 KB 1283)
- Penal Code definition
 - ‘persons employed in the public service’
- Prevention of Bribery Promulgation (POBP)
 - Covers bribery of “public servants” which covers 2 categories of persons as ‘prescribed officers’ and ‘employees of public bodies’
- Crimes Decree definition
 - “public officials”
 - ‘corporations’

Effects on Society

- Betrayal of public trust
- Erodes public confidence in our government institutions.
- Serious crimes impeaching on high official offices in government.

Sanctions for Bribery

Offence	Maximum available Sentence
Penal Code (PC)	
Active Bribery (s106(a) PC)	7 years imprisonment and/or unlimited fine
Passive Bribery (s106(b) PC)	
Passive Bribery (s108 PC)	6 months imprisonment
Prevention of Bribery Promulgation (POBP)	
Active Bribery (s4(1) POBP)	\$500,000 and 7 years imprisonment
Passive Bribery (s4(2) POBP)	
Crimes Decree (CD)	
Active Bribery (s134& s136 CD)	10 years imprisonment ; unlimited fine (but not excessive)
Passive Bribery (s135 & s137 CD)	

FICAC Cases on Bribery & Corruption

- Chen Xue Liang & Dechuan Zhao – Bribery (s4 (1)(a))
 - \$6000 & Box of Chinese Tea to influence tendering of contract
- Niraj Singh – Bribery
 - \$100 to official to quicken legal process
- Faga Solomone Finiasi – Official Corruption
 - Supervisor collects monies from workers overtime pay

Pending Cases

- **Case details have been excluded primarily due to confidentiality reasons.**

(Razim Buksh, Director Fiji FIU, Conference Organizer)

The End

The greatest want of the world is the want of men – men who will not be bought or sold, men who in their innermost soul are true and honest, men who do not fear to call sin by its right name, men whose conscience is as true to duty as needle to the pole, men who will stand for the right though the heavens fall.

Ellen G White