

Plea Agreements, Consent Decrees, DPAs and More

Kimberly Strong

Consolidated Edison, Inc.

Chief Ethics & Compliance Officer



COMPLIANCE WEEK 2013
POWERFUL INSIGHTS, PRACTICAL IDEAS, REAL SOLUTIONS

#CW2013

Plea Agreements, Consent Decrees, DPAs and More

A Trifecta of Experience

Consent Decrees

Qwest Communciations

DPAs (with monitor)

AOL

More – Conviction and Court-Supervised Probation

Consolidated Edison

Plea Agreements, Consent Decrees, DPAs and More

- Consent Decrees
 - Pay a fine.
 - Negotiated changes to business practice.
 - May not have to acknowledge wrongdoing.
 - Documented progress against terms and conditions to the agency for a period of time without a monitor.
 - Pay attention to executive complaints, better business bureau complaints, FTC or FCC complaints.

Plea Agreements, Consent Decrees, DPAs and More

- Deferred Prosecution Agreement
 - A criminal complaint is filed.
 - Acknowledge responsibility and admit that all the facts are true.
 - Delay prosecution for a period of time.
 - Probation without conviction.
 - Pay a fine.
 - Retain and pay for a monitor selected by agreement.
 - Report periodically to the court by monitor and company.

Plea Agreements, Consent Decrees, DPAs and More

- Conviction and Court-Supervised Probation
 - Pay a fine.
 - Sentenced by the Court.
 - Findings of fact.
 - Statement of wrongdoing.
 - Loss of control of business practices.
 - Monitor selected by agreement and paid for by the company.
 - Monitor reports to the court.

Plea Agreements, Consent Decrees, DPAs and More

- What happens in the organization
 - Business unit or corporate wide acceptance.
 - Where does the ownership reside.
 - Short-term impact vs. long-term change.
 - How to maintain the legacy.
 - Ensure the problems of the past are not repeated.

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Julia Symon

KBR Inc.

Director of Compliance

The KBR logo consists of the letters "KBR" in a bold, white, sans-serif font, centered within a solid red rectangular background.

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KBR's History

Guilty Plea with DOJ

Consent Agreement with SEC

Largest FCPA Fine Against a U.S. Company

Three-Year Monitorship

Challenges

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Company Goals

- Cooperative relationship
- Recommendations that are helpful and practical
- Good reports to agencies
- Manage costs
- End on time (or early if possible!)

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Company engages (and pays for) monitor

- Attorney-client privileged and confidential information
- Scope of review and monitor's role
- Work plans
- Resolution of disputes
- Reporting requirements

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Keys to successful monitorship

- Prepare organization for monitor
- Provide good background to monitor
- Establish trust
- Set ground rules and establish expectations
- Understand monitor's needs

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Keys to successful monitorship

- Tone from the top
- Good working relationship to jointly address areas of concern
- Documentation of progress
- Regular meetings with agencies
- Reports