

Does the Foreign Corrupt Practices Act Apply to this case?

Yes. The FPCA pertains to books and records.

Q. What do the books and records and internal control provisions of the FCPA prohibit?

A. The FCPA is a statute much broader than its name implies. The foreign corporate payments discovered in the mid-1970's were often recorded in separate books and records or otherwise misrecorded. Thus, Congress – at the SEC's urging – included books and records and internal control provisions in the FCPA.

The books and records provision requires that “issuers” “make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.”

....
As evident from the above description, **the FCPA's books and records and internal control provisions are generic and can be implicated in purely domestic scenarios that have nothing to do with payments to “foreign officials” to “obtain or retain business.”** (See here <http://www.sec.gov/litigation/litreleases/2011/lr21962.htm> for an example of what I call **non-FCPA, FCPA enforcement actions**). Because payments to a “foreign official” to “obtain or retain business” are frequently concealed or otherwise misrecorded on a company's books and records (such as “miscellaneous expenses,” “cost of good sold” etc.), the books and records provision can also be implicated in a typical FCPA scenario.

<http://www.fcprofessor.com/fcpa-101#q11>

Q. What is required under the FCPA in terms of bookkeeping?

Section 13(b)(2) contains two separate requirements for issuers in complying with the FCPA's accounting provisions: (1) a company must keep accurate books and records reflecting the transactions and dispositions of the assets of the issuer, and (2) a company must maintain a reliable and adequate system of internal accounting controls. In applying these two separate requirements to the instant case, the court will examine the requirements of each provision and the problems inherent in their interpretation.

The “books and records” provision, contained in section 13(b)(2)(A) of the FCPA has three basic objectives: (1) books and records should reflect transactions in conformity with accepted methods of reporting economic events, (2) misrepresentation, concealment, falsification, circumvention, and other deliberate acts resulting in inaccurate financial books and records are unlawful, and (3) transactions should be properly reflected on books and records in such a manner as to permit the preparation of financial statements in conformity with GAAP and other criteria applicable to such statements.⁴²

S.E.C. v. World-Wide Coin Investments, Ltd., 567 F. Supp. 724, 748 (N.D. Ga. 1983)