

white collar lawflash

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UK SFO Drops High-Profile Corruption Case

The trial of Victor Dahdaleh in London has collapsed due to the absence of key prosecution witnesses.

The UK's Serious Fraud Office (SFO) recently dropped its case against Victor Dahdaleh, the British-Canadian billionaire accused of paying more than £35 million in bribes to Sheikh Isa bin Ali al-Khalifa of Bahrain. The SFO alleged that the payments were made in return for aluminium supply contracts, worth \$3 billion, between Alba, Bahrain's state-controlled aluminium smelter, and companies represented by Mr Dahdaleh.

The alleged offences were committed prior to the inception of the UK's Bribery Act 2010, and the SFO therefore sought a conviction under the Prevention of Corruption Act 1906. Mr Dahdaleh relied on a defence of "principal's consent" on the basis that the payments were known to and approved by Alba and the Bahraini government and that the payments amounted to typical Bahraini custom and practice. Such a defence is no longer available under the Bribery Act 2010 regime.

During cross-examination at trial, counsel for the SFO conceded that the SFO was unable to offer evidence against Mr Dahdaleh and that, consequently, there was no longer a realistic prospect of conviction. The lack of evidence arose due to the unavailability of key witnesses, namely lawyers to whose firm the SFO had "delegated" certain aspects of its Bahraini investigation. While conducting enquiries in Bahrain for the SFO, the same law firm was also instructed by Alba to bring civil proceedings against Mr Dahdaleh in the United States.

The SFO is now reportedly seeking a costs order against Mr Dahdaleh's former lawyers, whilst Mr Dahdeleh is seeking costs from lawyers appointed by the SFO to act in Bahrain.

Implications

The Dahdaleh trial is the most recent of several cases in which the SFO has failed to secure high-profile convictions, including that of property magnate Vincent Tchenguiz in 2012. The outcomes of those cases may reduce the SFO's confidence when deciding to bring all but the most clear-cut high-profile prosecutions in future.

More generally, the Dahdaleh case demonstrates the importance of ensuring the availability of key witnesses to give live evidence in white collar criminal proceedings. In particular, parties—whether prosecuting or defending—should satisfy themselves at the time of instruction that their lawyers are prepared to give evidence if the need arises.

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