



Transparency International Canada Inc.

TI-Canada

**Third Annual
Spotlight on Anti-Corruption:
Government Under the Microscope**

**Rapporteur Reports
29 May 2013**

Introduction

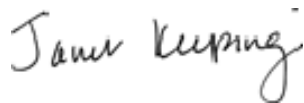
Transparency International Canada (TI-Canada) held its Third Annual Spotlight on Anti-Corruption: Government under the Microscope, on 29 May 2013, in Toronto. This year the topics addressed were:

- Grading Canada's Record on Compliance with International Obligations;
- Corruption in Government – Dealing with the Demand Side;
- Corruption in Canada: Hot on the trail; uncovering what's happening and why, and;
- How organizations can say “no” to bribe solicitations.

As in previous years, participants came from a variety of sectors, including business, government, academia, the media and civil society.

The Spotlight on Anti-Corruption is meant to explore and move forward the discussion on current anti-corruption issues. In order for people not able to attend the event to benefit from it, we have assembled Rapporteur Reports of each session, which were held under the Chatham House Rule, allowing for individuals' comments to be passed on without personal attribution.

We hope you will find these Reports useful and look forward to your participation in future TI-Canada events.



Janet Keeping
Chair and President

For any questions/suggestions or further information, please contact:
ti-can@transparency.ca; or 416-488-3939.

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Agenda



Transparency International Canada Inc.

presents the *Third Annual*

Spotlight on Anti-Corruption: Government Under the Microscope

Wednesday, 29 May 2013

08:00 – 17:00, followed by reception

Location: #3400, 1 First Canadian Place, Toronto (offices of Bennett Jones LLP)

PD credits are available for Ontario CAs

An application for accreditation of the program for professionalism hours is pending with the Law Society of Upper Canada

AGENDA

08:00 – 08:15 Coffee and Networking

08:15 – 08:30 Welcome and Introduction to Day

Ms. Janet Keeping, *Chair and President, Transparency International Canada*

08:30 – 10:00 Grading Canada's Record on Compliance with International Obligations

For many years, Canada was considered a laggard in enforcing compliance with the OECD, UN and other international commitments to combat corruption. But that was then. Increased resources have led to a steady stream of charges, guilty pleas, record fines and on-going investigations over the past four years. Knowledgeable speakers will review Canada's enforcement record to date, including a recap of cases known to be under investigation.

Moderator: Mr. Bruce Futterer, *Vice President & General Counsel, GE Canada, Mississauga, Ontario*

Speakers: Supt. Stephen Foster, *Director, Commercial Crime Branch, RCMP, Ottawa, Canada*
Mr. Patrick Moulette, *Head, Anti-Corruption Division, Directorate for Financial and Enterprise Affairs, OECD, Paris, France*

Mr. James M. Klotz, *Partner, Miller Thomson LLP, Toronto, Ontario, Member of FIFA's Independent Governance Group, Toronto, Ontario*

Rapporteur: Mr. Ken Mark, *Ken Mark Freelance Writer*

10:00 – 10:30 Nutrition Break

10:30 – 12:15 Corruption in Government – Dealing with the Demand Side

Since the mid-1990s the principal focus of the international campaign against corruption has been on the supply-side. Efforts were aimed at largely at the companies that pay bribes. The OECD, UN and other international conventions have aimed to create disincentives for companies and

other private sector participants by imposing severe sanctions including criminal prosecutions. While there remains much to be done on this score, the efforts to counter bribe solicitation, extortion and other corrupt misconduct by governments and public officials have not been nearly so high-profile nor fruitful. The panel will discuss international efforts to deal with demand-side corruption.

Moderator: Mr. Michael Robinson, Q. C., *Counsel, Fasken Martineau DuMoulin*, Toronto, Ontario

Speakers: Ms. Madeleine Drohan, *Journalist, The Economist*, Ottawa, Ontario
Mr. Daniel Ritchie, *President, Partnership Transparency Fund*, Washington, DC, USA

Mr. Mike Savage, *National Leader Forensics, Ernst & Young LLP*, Toronto

Rapporteur: Ms. Ophelie Brunelle Quraishi, *Manager Forensic/Financial Advisory, Deloitte Forensic*

12:00 – 13:15 Lunch

13:15 – 14:45 Corruption in Canada: Hot on the trail; uncovering what’s happening and why

The Charbonneau Commission investigating local business and political corruption directs our focus towards Quebec. But journalists and other professionals know that corruption does not recognize borders. The still unfinished investigations at SNC-Lavalin as to how contracts are secured demonstrate that the problem extends well beyond Quebec. The investigation into Ornge and the Computer Leasing Inquiry show that Ontario faces these issues. And British Columbia recently dealt with influence peddling and bribery charges related to a BC Rail transaction. The investigations we know and the active files being pursued by the RCMP suggest that Canada can still do more to deter corruption, conflict of interest and related abuses of power and processes.

Moderator: Mr. Julian Sher, *Journalist, Toronto Star*, Montreal, Quebec

Speakers: M. Luc Tremblay, *Producer, Radio-Canada*, Montreal, Quebec
Mr. Greg McArthur, *National Reporter, The Globe & Mail*, Toronto, Ontario
Mr. John Keefe, *Partner, Goodmans LLP*, Toronto, Ontario

Rapporteur: Ms. Sabrina A. Bandali, *Lawyer*

15:00 – 15:15 Nutrition Break

15:15 – 16:45 How organizations can say “no” to bribe solicitations

Businesses and other organizations that are confronted with demands for bribes or other forms of extortion are faced with a most difficult challenge. Outright rejection runs the risk of de-railing an important business venture, particularly if it occurs after the financial investment is made. A panel of experienced business advisors will review a wide range of strategies that have been used successfully to resist demands for bribes in international business.

Moderator: Mr. Milos Barutciski, *TI-Canada Board Member, Partner, Bennett Jones LLP*

Speakers: Ms. Dale Turza, *Cadwalader Wickersham & Taft*, Washington DC, USA
Mr. Peter Dent, *TI-Canada Board Member, Partner and National Leader, Deloitte Forensic*, Toronto, Ontario
Mr. Patrick Garver, *Former Senior Vice President and General Counsel, Barrick Gold*, Toronto, Ontario

Rapporteur: Mr. Elliot Burger, *Associate, International Trade and Customs, Bennett Jones LLP*

16:45 – 17:00 Closing Remarks

Ms. Janet Keeping, Chair and President, TI-Canada

17:00 – 17:45 Cocktail Reception



Rapporteur Reports

Grading Canada's Record on Compliance with International Obligations

Moderator: Bruce Futterer, Vice President & General Counsel, GE Canada

Stephen Foster, Supt., Director, Commercial Crime Branch, RCMP

Patrick Moulette, Head, Anti-Corruption Division, Directorate for Financial and Enterprise Affairs, OECD

James M. Klotz, Partner, Miller Thomson LLP, Member of FIFA's Independent Governance Group

Rapporteur: Ken Mark, Ken Mark Freelance Writer

For several years after Canada ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions by passing the Corruption of Foreign Public Officials Act (CFPOA) in 1999, its activities in such matters were quiet on all fronts. As one panel member concluded, early peer reviews by the OECD Working Group on Bribery did not consider Canada an A student.

However, in recent years, the volume of cases has increased. A major turning point occurred when Canada ratified the UN Convention against Corruption, in 2007, followed by the establishment of the RCMP International Anti-Corruption Unit in 2008. More recent OECD reviews have given Canada a passing grade.

Prior to that, in 2005, the RCMP prosecuted a minor case involving the Hydro-Kleen Group that paid a U.S. immigration official \$28,299 in bribes. The resulting fine was \$25,000. It was a simple, straightforward action.

In contrast, the Niko Resources Ltd. case was much more complex. Briefly, the firm's executives pleaded guilty in Calgary to offering two bribes valued at about US\$200,000 to the Bangladeshi state minister for energy and mineral resources. They included a sports-utility vehicle and paying the expenses for a trip to Calgary, New York City and Chicago. After pleading guilty in June 2011, the firm was fined \$9.5 million.

A speaker commented that the case was not a true test of the new legislation. Executives pleaded guilty, paid the fine and "cleared the books". Still, the size of the fine caught many by surprise.

Alberta-based Griffiths Energy was the next shoe to drop. Prior to a proposed IPO in 2008, its new board of directors discovered that the previous CEO had paid US\$2 million to the wife of the then Chad ambassador to the Canada to gain an advantage for the

firm's application for extraction rights. In January 2013, after an extensive probe, the firm pleaded guilty to bribery charges and agreed to pay a \$10.35-million penalty.

In both cases, companies were fined but no executives were charged. A panel member noted that although the Griffiths bribe was 10 times greater than Niko Resources' improper payment, the fines were very similar. As well, both cases resulted from voluntary disclosures not from official discoveries.

There is also an ongoing case involving Nazir Karigar, an Indian-born Canadian. In 2010 the RCMP charged him with allegedly offering a bribe to an Indian minister to rig a bid for an airport security services contract to favour his company, CryptoMetrics. The matter is still before the courts.

Currently, there is a backlog of about 35 cases under investigation. It was noted that the RCMP has two dedicated anti-corruption units in Ottawa and Calgary not to mention Headquarters' oversight.

Questions from the floor included questions on the adequacy of Canada's enforcement infrastructure to handle such probes with the same vigour as the US. It is estimated that the US government collects US\$1 billion annually from corruption-related fines. Part of that success comes from "competitive enforcement" involving the Securities and Exchange Commission (SEC) and the Department of Justice (DoJ). The former deals with books and records offenses, which make up the majority of US cases, and which, at this time, are not offenses under Canadian law.

Another issue is the need for greater federal-provincial cooperation to pursue wrongdoers. In Canada, matters related to securities are a provincial concern while dealing with international corruption is a federal matter based on multilateral treaties and agreements signed by Ottawa.

Finally, the federal government recently introduced Senate Bill S-14, An Act to amend the Corruption of Foreign Public Officials Act. Proposed changes include:

- Expanding jurisdiction for prosecuting CFPOA offences
- Phasing out facilitation payment exemptions
- Creating a books and records offence
- Broadening the definition of "business" to include non-profits and NGOs
- Increasing the length of prison sentences
- Granting the RCMP exclusive enforcement jurisdiction.

The goal of the amendments is to enable Canada to move towards the top of the class in terms of eliminating corruption of foreign officials.

What the RCMP's anti-corruption crackdown means for miners

<http://www.miningmarkets.ca/news/what-the-rcmps-anti-corruption-crackdown-means-for-miners/1000913926/>

Corruption in Government – Dealing with the Demand Side

*Moderator: J. Michael Robinson, Q. C., Counsel, Fasken Martineau DuMoulin LLP
Madeleine Drohan, Journalist, Canadian Correspondent, The Economist, Ottawa, Ontario
Daniel Ritchie, President, Partnership Transparency Fund, Washington, DC, USA
Mike Savage, National Leader Forensics, Ernst & Young LLP, Toronto
Rapporteur: Ophelie Brunelle Quraishi, Manager Forensic/Financial Advisory, Deloitte Forensic*

The moderator referred to two hand-outs distributed to attendees giving background on “hard” and “soft” law on the supply side and posing questions for discussion of the demand side.

The presentation kicked off with informal descriptions by panellists on their personal experiences involving the demand side of bribery.

The enforcement of sanctions by international development banks, such as debarment, was used as a basis for discussion of possible application of such regimes for the demand side also.

The panel talked in further detail about its experiences with demand side bribery and lessons learned. Several examples were given describing difficult, sometimes dangerous, situations involving officials soliciting bribes, for instance at airports or roadblocks. Some of the lessons learned are: not assume one has to accept to pay a bribe; never flaunt or expose that one has something to offer - such as jewelry or money; never give the demand side an excuse for asking for a bribe by putting oneself in a difficult situation (for instance by not obeying a curfew), and not assume that one will be asked to pay a bribe.

What follows summarizes suggestions made by panelists and the audience, without attribution. Corruption is not only about the “big fish”. It is also about people who deal with corruption on a day-to-day basis in their daily lives. We should be cognisant that individuals facing corruption can demand integrity and we must not overlook the importance and power of citizen groups as agents of change and a solution to the demand side of corruption. This change cannot be imposed but rather has to come from within and will never be rapid. As a precondition, individuals must have access to information. A step forward would be for development banks to better fund civil society organisations espousing that.

The tone from the top in government or organisations is important and has a trickle-down effect. It is usually decisive in determining the type of corruption that prevails. If sanctions are enforced, it affects behaviour. The case of one of Kenya's previous Presidents, Daniel Arap Moi (page 5 of the Memorandum distributed as one of the hand-outs) demanding \$US 2M cash for an airport vendor's licence and claiming that was the Kenyan "tradition", was an example. The question was debated as to whether the tone at the top needs to be genuine to be effective. When government changes, it disrupts the existing culture and the new government usually conveniently finds corruption by the former. Even if only for a short period, there can be a benefit to disrupting an existing corrupt government. (The panel referred to Question 10 of the Memorandum). One practical solution for those willing to operate in foreign countries is to go straight to the top, or as high as possible in government, and explain at the onset that bribes will not be paid, hoping the word, and fear of domestic sanctions, will trickle down within officialdom.

Key elements relating to the root causes of demand side bribery and efficient foreign enforcement may offer solutions to bribery. Transparent and efficient procurement laws and processes ensure competitiveness for the awarding of contracts and diminish the ability of corrupt players to influence behaviour. In regards to enforcement efficiency, cross border support can be pivotal for emerging markets.

The example of leading Canadian engineering firm Acres International's debarment by the World Bank (not prosecuted as the OECD convention was not in force then) was discussed as an early example of "soft law" sanctions being effective and the possibility of being replicated on the demand side. That would entail international development banks refusing to lend to countries which do not have or, as more often, do not enforce their domestic anti-corruption legislation. One lesson learned is the huge effect such debarments can have on a company's reputation. These development banks (the "Big Five") however face a new challenge due to the fact that they are not as powerful as they used to be, with countries like India and China borrowing less and some, like China, lending more internationally.

Several lively discussions and comments were made throughout the presentation on issues such as bribery being considered as a human rights violation. Export Development Canada providing stricter sanctions, similar to those of development banks, was suggested, not only for Canada's export credit agency but for the many ECA's, in the OECD and elsewhere, and considering extending that to delinquent counties.

A risk was identified from demand-side sanctions against countries. Would those countries be driven to seek development loans from countries with poorer anti-

corruption regimes? China was singled out, based on the probability that it would replace World Bank for the Padma Bridge in Bangladesh, the World Bank having cancelled its loans for corruption and the IMF cancelling a loan to the D.R. Congo for not providing transparency when awarding mining concessions. Could this drive countries into the hands of lenders which might bribe - an unintended consequence?

Corruption in Canada: Hot on the trail; uncovering what's happening and why

Moderator: Julian Sher, Journalist, Toronto Star, Montreal, Quebec

Luc Tremblay, Producer, Radio-Canada, Montreal, Quebec

Greg McArthur, National Reporter, The Globe & Mail, Toronto, Ontario

John Keefe, Partner, Goodmans LLP, Toronto, Ontario

Rapporteur: Sabrina A Bandali, Barrister and Solicitor; Member of the Legal Committee, TI-Canada

The Development of Anti-Corruption Enforcement in Canada

Despite a story of small-town fraud and perjury in Alberta breaking the day before the panel discussion, corruption scandals are not new to Canadian headlines. The recent history of corruption scandals can be traced back to the Airbus Affair in the 1980s, where the only penalty for secret commissions being paid to sitting government officials was delayed tax consequences.

The RCMP's subsequent creation of an anti-corruption unit and the development of Canadian anti-corruption law dramatically changed this landscape. Panelists commented that recent investigations into the activities of SNC-Lavalin demonstrate the RCMP's application of powers intended to fight organized crime to corruption: affidavits unsealed in May 2013 indicate that the investigation was able to freeze the accounts of a former SNC-Lavalin VP; the preliminary hearing into bribes allegedly paid to win contracts related to the Padma Bridge project in Bangladesh was subject to a publication ban. One panelist described the exercise of such powers as an example of the RCMP applying laws for gangsters to fraudsters and treating companies accused of paying bribes like criminal organizations.

Uncovering Corruption in Canada

Journalists have played a prominent role in uncovering corruption in Canada. Often, one investigation has led to another: the discovery that a bid was rigged or investigation into a political campaign reveals a larger network of corruption or fraud. In Quebec, investigative journalists decided to increasingly focus on corruption issues as information came to light. At the same time, the police set up a special corruption squad to investigate allegations of municipal corruption. Thus, although Quebec may not have more or fewer problems with corruption than the rest of the country, at the present time there are more resources focused on uncovering and combating the problem.

In the case of SNC-Lavalin, it was an internal investigation of suspicious payments that set off a chain of investigations. Although the company may have had a system of checks

and balances to guard against such payments being made, the panelists noted that safeguards of this kind cannot work if they are not rigorously applied. If one VP signs off on the payment sought by another VP based on trust rather than independent verification, this is not a true check and balance. Precisely because there may be unwitting participants, uncovering who knew what and when is vital.

The panelists also questioned the relationship between a “culture of compliance” and a company’s internal “moral compass.” Although companies may feel that they have a strong culture of compliance, other structural aspects of the company’s operations, such as a bonus system or quarterly targets, may focus employees too narrowly on getting the job done rather than assessing the morality of their actions. Linking to the morning panel discussion on the demand side of bribery transactions, the panelists noted that although public servants in Quebec are not poorly paid, witnesses before the Charbonneau Commission have frequently offered a variety of justifications for why people took money inappropriately. One panelist commented that more attention should be paid to the psychology of these decisions within companies, as well as the pressure that is placed on people to perform and produce specific results.

Whistleblowers

Often whistleblowers are a source of information for journalists about the activities of a company. Notwithstanding whatever legal protections may exist, a whistleblower is still doomed to face years of litigation without support. Typically the whistleblower leaves the company and reports to the authorities; more often than not the person has been part of the dishonesty. Whistleblowers do not always get to be witnesses and may be prosecuted themselves. For example, in the US, a whistleblower formerly employed by UBS gave information and was recently rewarded with a \$104 million bounty but nonetheless served three years in jail. The panel also discussed some of the complexities of engaging with whistleblowers: as one panelist noted, unlike in the movies, whistleblowers may have complex motivations for coming forward when they do.

Currently, Canada only has whistleblower legislation for the public sector, not the private sector, and the existing legislation is under government review. The panel noted that US-style reforms which award a 20% bounty from any resulting penalty and anti-firing protections (part of the Dodd-Frank amendments) are controversial in Canada. Commissions of inquiry such as the Charbonneau Commission may have other protections: what is said by a witness before the Commission cannot be used in a resulting criminal prosecution. According to the panel, some witnesses have made deals with the police before coming to the Commission, and in other situations, such as the investigation into events in Laval, arrests were timed to occur prior to testimony before the Commission. Interestingly, one of the Charest government’s arguments against

having a commission was that it would impede investigation. Based on the experience of the Charbonneau Commission, it seems that the opposite is true, as there have been many resulting investigations into alleged corruption and fraud.

Risks of Investigating Corruption

The panelists were asked to comment on the risks faced by journalists and lawyers who work in this area. Although journalists may be subject to personal threats, the panelists commented that the more prevalent danger is reputational: that the parties subject to investigation or impacted by the journalist's work will seek to discredit the journalist or make the journalist personally part of the story. For lawyers, the major risk is being subject to litigation or complaints to the Law Society, which are expensive and time-consuming to defend, as professional insurance may not apply.

Lessons from other Jurisdictions

The panelists observed that anti-corruption efforts in the US are firmly embedded in a culture of criminal enforcement with an emphasis on penal consequences for corrupt activities. By contrast, in Canada, we have a culture of commissions, of wanting people to speak publicly to uncover what has been going on. South of the border, both the US Federal Department of Justice (DOJ) and Securities and Exchange Commission (SEC) have jurisdiction over corruption offences, with the FBI providing enforcement capacity and working with both institutions. Companies' own internal investigations provide evidence and material. Because there is a much greater penalty for failing to self-report, companies have an incentive to come forward rather than perpetuating inadequate books and records. However, the panel noted that it has taken the SEC 30 years to "grow into" these powers and to achieve today's state of robust enforcement.

By contrast, corruption is a criminal offence in Canada and is under the investigative jurisdiction of the RCMP. Looking to securities law and creating more and better avenues for self-reporting would strengthen Canada's enforcement efforts. The panel noted that there have been some legislative efforts in this direction. Bill 474 – a private member's bill – would compel public reporting of payments made by mining, oil and gas corporations to foreign governments. The current amendments to the Corruption of Foreign Public Officials Act include an amendment to the books and records provision that some panelists described as the most significant among the changes introduced. If passed, a failure to keep adequate books and records would engage the personal liability of a senior official after the fact of the bribe and apply to both private and public companies. However the panel and members of the audience noted that there are still many outstanding questions regarding the books and records offence, including what level of criminal intent would be required and what accounting standards would apply to determine if the books and records were adequate.

Conclusion

Overall, the panel concluded that domestic corruption is an ongoing concern and that Canada can do more to combat corruption within its borders, including through the protection and support of whistleblowers. Jurisdictions such as the US may offer alternative enforcement and protection models that Canada should consider. Quebec's recent experiences highlight the importance of both law enforcement agencies and non-government actors such as journalists in focusing attention and resources on combating domestic corruption.

How Organizations Can Say "No" to Bribe Solicitations

Moderator: Milos Barutciski, Partner and Co-Chair of International Trade and Customs Group, Bennett Jones LLP

Dale Turza, Partner, Cadwalder Wickersham & Taft LLP

Patrick Garber, Former Senior Vice President and General Counsel, Barrick Gold

Peter Dent, Partner and National Leader, Deloitte Forensic

Rapporteur: Elliot Burger, Associate, International Trade and Customs, Bennett Jones LLP

The objective of this session was to identify strategies that can be used to reduce corruption risk when operating in countries with a high incidence of corruption. An important but often overlooked tool for fighting corruption is a company's corporate social responsibility (CSR) program. Directors and executives often consider CSR as a necessary (but not necessarily productive) cost of doing business, or a "soft" commitment whose principal value is as a means of "buying" local support and enhancing a company's public image. If used strategically, however, CSR can help mitigate the risk of corruption liability and potentially save the corporation significant compliance and legal costs in the long run.

If planned and executed strategically, a CSR program can help a company develop a network of allies in high-risk countries. It is not just building schools or hospitals, or introducing local philanthropic programs in isolation. By helping a company to enlist local stakeholders in support of their operations, a CSR program can give a company facing bribe solicitation or extortion from local officials important allies who may provide countervailing pressure on corrupt officials. Effective CSR is a proactive approach that can help a company insulate itself from bribe solicitation and extortion and provide a means of resisting it when it happens.

When entering high-risk jurisdictions, companies must be proactive in planning how to deal with the inevitable corrupt shakedowns that they will face. It is not a matter of "if" but "when", and companies that plan ahead and develop strategies for responding will reduce their exposure significantly as compared to companies that respond by crisis management alone. CSR is one of several strategies that should be considered in advance and adapted accordingly when entering high-risk jurisdictions.

To be effective, a proactive approach to countering corruption has to come from the top down within the corporation. Employees must see that they have institutional support to resist corruption and develop approaches to push back that will generally be more complicated and time-consuming than just "giving in". Such support must flow from the

Board of Directors, the CEO and compliance managers, through a corruption prevention policy, and into day-to-day decision-making and reporting systems. A corporation's defences against corruption are only as strong as its weakest link. Internal controls, compensation and monitoring should be designed around the goal of promoting transparency and buffering against corruption by creating incentives for resisting corruption rather than taking the path of least resistance.

Another strategy for mitigating corruption risk is to develop relationships with political officials and local business partners, when the corporation enters a locality, and work with them to develop programs for their community and leverage the employment and local economic benefits that will accrue to their constituents. Political officials who have worked with the corporation to develop such programs can be of assistance down the line if the corporation runs into corruption issues at a lower or different level. Similarly, local business partners who have a commercial stake in the company's business will have their own incentives to apply political pressure on corrupt shakedowns that jeopardize the business.

While a customs official or building inspector may not care if the corporation has built a school or community center, or committed to some long-term contribution to a particular community, the local member of parliament or a Minister with responsibility for the region may be more likely to apply pressure if they feel their constituency has something to lose. Similarly, that political official will also be less likely to make corrupt requests if the corporation has some leverage over the benefits that the political official's constituents receive. These relationships (and relevant CSR programs) can thus be used strategically as a buffer against corrupt requests and as leverage to "unclog bottlenecks" when they occur.

One of the key challenges of developing proactive strategies to deflect bribe solicitation is convincing the Board of Directors that it is economically in their best interest to say "no" when faced with bribery. Reference to the experience of US and other companies that have taken active steps to fight corruption (including some companies that have taken such measures after being implicated in corruption scandals) demonstrates that companies are able to compete in the face of corruption and corrupt competitors. It is a myth that you need to engage in bribery in order to be able to compete internationally. Companies can and do compete in very high-risk environments without necessarily engaging in corruption. However, it requires advance planning, a commitment to comply and the determination to walk away if necessary. Increased monitoring and enforcement of anti-corruption laws internationally will mean that corrupt competitors will potentially face heavy economic consequences for failure to resist corruption.

As a result of the aggressive enforcement of the US Foreign Corrupt Practices Act (FCPA), a growing number of US boards and CEO's have determined that investing in robust anti-corruption compliance programs and monitoring are necessary to avoid the financial and reputational cost and management "headaches" that accompany corruption investigations. The "collateral consequences" of a failure to instill a culture of compliance include extraordinary investigative and legal costs (which can run into the \$10's or \$100's of millions), widespread media coverage leading to a public perception of "guilty until proven innocent", a negative impact on stock price, procurement disqualification with key customers or ineligibility to receive licenses or permits.

Companies that choose to develop a robust corruption compliance program must be realistic when designing and tailoring the compliance program for the corporation's international operations. When a company enters a foreign jurisdiction, it should recognize that strong procedures and monitoring will not protect all of their staff equally. Local employees are subject to different political and cultural pressures than those that may be experienced by expatriates. As such, compliance training and support must be tailored to local conditions. Facilitation payments and low level corruption are unlikely to be rooted out quickly (or even entirely) in certain high-risk jurisdictions. However, active compliance efforts can ensure that this sort of corruption is also not likely to attract a high level of liability.

With respect to higher levels of corruption (i.e., large contracts, more senior officials), a company with a robust compliance culture must be prepared to say "no" to corrupt requests, even if they result in a lost contract. It will also be important during this time to complement the compliance program with thorough record keeping. Corruption compliance means nothing if you cannot document how payments were made and for what purpose. That said, if you create a paperwork trail, you also have to audit it yourself to make sure that it is reliable and evidences a culture of compliance.

Compliance officers need to be supported by local counsel familiar with the nuances of corruption regulation in each locality. If these resources are not available, corporations still have a wealth of templates and policies readily available on the internet from sources like Transparency International, the US DOJ website and the World Bank.



Speakers' & Moderators' Bios

Milos Barutciski is a partner of Bennett Jones LLP and chairs the firm's International Trade and Investment Group. For more than 25 years Mr. Barutciski has represented Canadian and international companies, including Fortune 500 companies and corporations listed on the TSX, NYSE, NASDAQ, European and Asian exchanges in relation to anti-corruption and other international regulatory matters in Canada and abroad. He has also represented Canadian, US and European companies in corruption investigations by the World Bank, and appeared as counsel before the World Bank's Sanctions Committee. Mr. Barutciski is a founding member of the Task Force on Bribery and Corruption of the Business and Industry Advisory Committee to the OECD and, in that capacity, was intimately involved in the OECD's consultations on the 1997 Anti-Bribery Convention. From 1996-99, Mr. Barutciski was retained by The World Bank to advise with respect to regulatory reform in the Middle East and Africa. He is a Board Member of Transparency International Canada.

Peter Dent is Partner and National Leader, Forensic & Dispute Services, Deloitte & Touche. He has 19 years of experience practicing in the areas of investigating and providing expert testimony regarding allegations of fraud and corruption, with a focus in the global arena, in addition to providing anti-fraud and anti-money laundering management strategies in the public and private sectors. From 2007 – 2009, he was part of a leadership team overseeing a large multi-disciplinary team, investigating allegations of widespread corruption involving the activities of Siemens AG. Between 2000 and 2004, Mr. Dent was the Team Leader of the Forensic Services Unit within the Department of Institutional Integrity of the World Bank Group in Washington, D.C., leading international fraud and corruption investigations into World Bank financed projects. He is a Board Member of Transparency International Canada and the Alliance for Excellence in Investigative & Forensic Accounting.

Madelaine Drohan is the Canada correspondent for The Economist. For the last 30 years, she has covered business and politics in Canada, Europe, Africa and Asia. She is the author of *The 9 Habits of Highly Successful Resource Economies: Lessons for Canada*, a research report that she wrote in 2012 for the Canadian International Council. Her book, *Making a Killing: How and why corporations use armed force to do business*, was published in 2003 by Random House of Canada and in 2004 by The Lyons Press in the United States. It won the Ottawa Book Award and was short-listed for the National Business Book of the Year Award in 2004. When possible, she conducts journalism workshops for media in Africa and Southeast Asia, with a special focus on business and investigative journalism. Ms. Drohan was awarded a Reuters Fellowship at Oxford University, in 1998, and the Hyman Solomon Award for Excellence in Public Policy Journalism in 2001. She was a 2004-2005 Media Fellow at the Chumir Foundation for Ethics in Leadership and the 2004-

2005 Journalist in Residence at Carleton University. She has been a volunteer director on the boards of the North-South Institute, Transparency International Canada and Partnership Africa Canada, where she was also president. She lives in Ottawa.

Stephen Foster is the Director, Commercial Crime Branch, of the Royal Canadian Mounted Police (RCMP). His areas of expertise include major frauds, mass marketing fraud, counterfeit currency, identity theft, and corruption. For the majority of Superintendent Foster's 27 years with the RCMP he has been involved in conducting or supervising a wide variety of complex corruption, fraud, and technological crime investigations. During the past 10 years he has had responsibility for various economic crime units and initiatives including the planning and implementation an International Anti-Corruption program for the RCMP.

Bruce N. Futterer received his B.A. from the University of Toronto and his LL.B. from Osgoode Hall Law School. He was called to the Ontario bar in 1981. Mr. Futterer has held General Counsel positions with a number of companies in Canada and the U.S. during his career, including Wardair, Kerr Addison Mines, Stelco and a number of Cadbury Schweppes companies, including Dr Pepper/Seven Up Inc. He was also in private practice during the early 1990s with the Toronto firm of Holden Day Wilson. Mr. Futterer joined GE Canada as Vice President, General Counsel & Secretary in January 2007. He is a Board Member of Transparency International Canada.

Patrick Garver is a lawyer in Toronto. From 1978 to 1994 he practiced law with Parsons Behle & Latimer, a leading law firm in the western United States. From 1994 to 2010 he was the Executive Vice President and General Counsel of Barrick Gold Corporation, headquartered in Toronto, Canada. During his tenure at Barrick the company grew to become the largest gold mining company in the world. In 2006 Patrick was named by the National Post as Canada's General Counsel of the Year. Mr. Garver is currently engaged as a Senior Advisor to the Good Governance Group, an international strategic advisory company. He is also serving as an arbitrator in international commercial arbitration and as an independent consultant.

John Keefe is a partner in the Litigation Group at Goodmans. John practises commercial litigation with emphasis on commercial disputes, white collar crime and securities fraud, domestic and international arbitration, competition law and injunctions. He has appeared before the Supreme Court of Canada, the Federal Court and all levels of Court in Ontario and before numerous administrative tribunals. Mr. Keefe's practice involves issues involving complex commercial disputes, which are usually international in nature. He has also been involved in numerous matters relating to white collar crime and securities fraud

including corporate governance issues, internal investigations, cross-border investigations, employee dishonesty, conflict of interest, theft of trade secrets, tracing assets, money laundering and the bribery of foreign officials. Mr. Keefe has acted as counsel to boards of directors, audit committees and special committees to investigate allegations of corporate misconduct and conflict of interest. He is the past Secretary of the Section on Business Crime of the International Bar Association. Mr. Keefe has also acted as counsel and arbitrator in numerous domestic and international arbitrations including those that fall under the rules of the International Chamber of Commerce, the American Arbitration Association, UNCITRAL Model Law, the Zurich Chamber of Commerce, and the Ontario International Commercial Arbitration Act. He is a member of the Canadian Panel of Arbitrators of the International Chamber of Commerce and the British Columbia International Commercial Arbitration Centre. He is a past director of the Arbitration and Mediation Institute which has recognized him with its Chartered Arbitration (C. Arb.) designation. He is a past director of the Advocates' Society, the organisation that represents all trial lawyers in Ontario.

Janet Keeping is Rule of Law Fellow at the Sheldon Chumir Foundation for Ethics in Leadership, where she served as President from 2006 to early 2012. She has a Bachelor of Science in Art and Design, from MIT, and an MA (Philosophy) and LL.B. from the University of Calgary. She was called to the Alberta Bar in 1981. For many years, Ms. Keeping did legal research and public legal education for the Canadian Institute of Resources Law. There she worked on legal issues connected with human rights, environmental protection and accommodation of Aboriginal interests in the context of resource development. Between 1993 and 2006, she also worked on projects aimed at exposing Russians to market-oriented and democratic processes, including respect for the rule of law, in the regulation of their oil and gas sector. Ms. Keeping is Chair and President of Transparency International Canada.

James Klotz is a partner at Miller Thomson LLP in Toronto and Chair of the firm's Anti-Corruption and International Governance Group. He is also Co-Chair of the firm's International Business Transactions Group. International corporate governance and anti-corruption are his areas of speciality. Having led complex corporate and commercial transactions in more than 108 countries, Mr. Klotz is widely respected for his deep knowledge and practical experience in the international business arena. Mr. Klotz provides counsel to public and private organizations and enterprises. He is a graduate of the Institute of Corporate Directors, and is a member of the Management Board of the International Bar Association. He currently is a member of FIFA's Independent Governance Committee. Ms. Klotz has for many years held senior leadership positions in the International, American and Canadian, Bar Associations. He has been an Adjunct Professor of International Law at

Osgoode Hall Law School in Toronto and is a well regarded international business law speaker, lecturer and author, with more than 100 papers on the topics of anti-corruption and international business law to his credit. Mr. Klotz is the immediate Past President of Transparency International Canada and is a member of the Allard Prize Advisory Board. Business enterprises and lawyers around the world have also benefited from his practical textbooks, including “Power Tools for Negotiating International Deals” and “International Sales Agreements: A Drafting and Negotiation Guide”, both of which are in their 2nd edition by Kluwer International. Jim speaks conversational French and Mandarin and is learning Spanish.

Greg McArthur is a reporter with The Globe and Mail in Toronto. He has written about everything from terrorism to abuses of power by police -- until he caught the anti-corruption bug while investigating the mysterious cash payments given to former prime minister Brian Mulroney by Karlheinz Schreiber. He has won numerous awards for his work, including a National Newspaper Award, the Canadian Association of Journalist's President's Award, and was nominated for the Governor General's Michener award for public service journalism for his work on the Airbus affair. Most recently he was nominated, along with his colleague Graeme Smith, for three National Magazine Awards for their work on the SNC-Lavalin scandal.

Patrick Moulette is Head, Anti-Corruption Division, Directorate for Financial and enterprise Affairs, at the OECD. He began his professional career in 1985 in the Department of the Treasury of the French Ministry of Finance. After five years in the Monetary and Financial Affairs Division, he joined the International Affairs Division of the Treasury in 1990 to work on issues related to G-7 meetings, international trade, anti money laundering and relationships with the IMF and the OECD. Mr. Moulette joined the OECD in 1991 as a member of the Secretariat of FATF (Financial Action Task Force on money laundering). In November 1995, he was promoted to Executive Secretary of the FATF. During his tenure as Executive Secretary, he coordinated two rounds of mutual evaluations of FATF members, the enlargement of FATF mandate to deal with terrorist financing issues and the revision of the FATF 40+9 Recommendations approved in June 2003. In 2004, Mr. Moulette, was appointed Head of OECD Anti Corruption Division. His current position at the OECD involves the design and management of the work programme of the 40-country Working Group on Bribery in International Business Transactions (composed of the 34 OECD Member countries plus Argentina, Brazil, Bulgaria, Colombia, Russia and South Africa). His responsibilities also include leading the process of evaluating the implementation of the OECD Convention and Recommendations by its members and to develop and supervise outreach activities.

Daniel Ritchie is President, Partnership Transparency Fund (PTF), in Washington, D. C. Mr. Ritchie worked at the World Bank from 1968 to 1998, as Loan Officer, Yemen and Oman, Deputy Secretary of CGIAR, Chief of Agricultural Projects Division, Assistant Director of Personnel Department, Chief of India Country Operations, Director of Asia Technical Department and Country Director of North Africa and Iran Department. Since 1998, he has served as an independent consultant to international and bilateral development institutions for program evaluation, organizational diagnostic, facilitation and training. As well as serving on a number of boards relating to Africa, South Sudan and India, Mr. Ritchie is the Founder and President of the William and Nancy Budd Scholarship Fund, a scholarship fund for secondary and post-secondary student in Kenya, currently supporting 50 students a year. The PTF is an international anti-corruption fund, established in 2000, to finance civil society organizations, in developing countries, engaged in promoting transparency and accountability in government and combating corruption.

J. Michael Robinson, Q.C., is Counsel at the law firm of Fasken Martineau DuMoulin LLP in its Toronto office. His law practice of 47 years emphasizes international private (business) law - international sales, trade and investment and particularly international public/private partnerships for infrastructure developments. He advised the governments of Canada and Mexico, respectively, on financial services in negotiation of the Canada/US Free Trade Agreement and NAFTA. For over a decade, Mr. Robinson taught international treaty, trade and investment law as an Adjunct Professor at Osgoode Hall Law School (York University), Toronto, and the Faculty of Law, University of Western Ontario, London, Ontario. For 25 years he was active in the Section on Business Law, International Bar Association, London, holding Committee Chair and Co-Chairs and as a member of Council. For over 25 years he was active in the Canada-United States Law Institute and a member of its Executive Committee. In 2011, Mr. Robinson received the Award of Excellence (lifetime achievement in practice and teaching) In International Law of the Ontario Bar Association. He is a Board Member of Transparency International Canada.

Mike Savage is the practice leader for fraud investigation and dispute services for Ernst & Young in Canada, a Chartered Accountant and a Certified Fraud Examiner. With regard to dealing with corruption and bribery, Mr. Savage has testified as expert witness in the criminal prosecution of a former Member of Parliament in South Africa for bribery and corruption; advised management of a Fortune 50 company on compliance with a deferred prosecution agreement, including the design of the remedial measures program, interactions with the compliance monitor appointed and regulators; investigated allegations of bribery, corruption or fraud risk for clients in many countries, including Canada, the United States, Mexico, South Africa, Botswana, Zambia, Namibia, Nigeria, Equatorial Guinea, Algeria, Kenya, Tanzania, the UAE, Bahrain, China, India, Brazil, Guatemala,

Mauritius, Malaysia, Madagascar and Sri Lanka, and; contributed two chapters to “The Guide to Investigating Business Fraud”, a book published by the American Institute of Certified Public Accountants.

Julian Sher is an award-winning investigative journalist in print, TV and radio, and author of six widely- acclaimed books on crime and the justice system. For his last two books, he spent four years investigating prostitution in America and Internet child predators. His writings on child abuse have appeared in the New York Times, USA Today, Readers Digest, Macleans and the Globe and Mail. His book "Until You are Dead" about Canada's most famous murder case helped Steven Truscott clear his name 50 years after he was nearly hanged. He has twice been awarded by the Crime Writers of Canada for the Best True Crime Book of the Year. In 2006, he directed a New York Times-CBC TV investigation called “Nuclear Jihad” which won the Alfred I. duPont-Columbia University Award, the broadcast equivalent of the Pulitzer Prize. He sits on the Ethics Committee of the Canadian Association of Journalists. He is currently a regular freelance writer for the CBC and the Toronto Star. For more information, see www.juliansher.com

Luc Tremblay graduated from Université de Montréal Law School in 1989 and was admitted to the Quebec Bar in 1990. After working as a trial lawyer for 3 years with Cain Lamarre Wells, he began his career as a freelance journalist. In 1994, he started working as associate producer on Radio-Canada's daily current affairs TV magazine, LE POINT. He has been a producer since 1997 with Radio-Canada, working for the last three seasons for its investigative journalism program ENQUÊTE.

Dale Chakarian Turza is a partner in the Business Fraud and Complex Litigation Group, resident in the Washington, D.C. office of Cadwalader, Wickersham & Taft LLP. She is a recognized expert in the United States Foreign Corrupt Practices Act, international corruption laws, money laundering, export controls, economic sanctions and national security issues. Her practice extends to enforcement actions, internal investigations and compliance matters. She regularly represents clients before the U.S. Departments of Justice, State, Treasury (including the Office of Foreign Assets Control), Defense, Homeland Security and Commerce and the Securities and Exchange Commission. Mrs. Turza represents a diverse group of clients that includes defense contractors, industrial companies, financial institutions, financial services companies and news organizations. Prior to joining Cadwalader, Mrs. Turza was a partner with Clifford Chance and its predecessor law firm in the U.S., Rogers & Wells LLP. She frequently publishes articles for newspapers and professional journals in her areas of practice, including the New York Law Journal and Asia Law, and is also a regular panel participant and moderator for the American Bar Association (ABA) and other organizations. Mrs. Turza is a member of the

District of Columbia Bar, the Bar Association of the District of Columbia, and the ABA, where she previously served as Vice Chairman of the ABA's Task Force on International Standards for Foreign Corrupt Practices and Vice-Chairman of the ABA's Task Force on Professional Responsibilities Regarding Money Laundering. Mrs. Turza is the Chairman Emeritus of the Board of Directors of the Graduate School of Arts and Sciences Alumni Association of Columbia University, a 2011 Columbia University Alumni Medalist and a past Trustee of Connecticut College and past President of its Alumni Association. She received her B.A., summa cum laude, from Connecticut College for Women, where she was a member of Phi Beta Kappa; her M.A. from Columbia University, where she was a Zohrab Scholar; and her J.D. from Georgetown University Law Center, where she was Editor of the *Journal of Law and Policy in International Business*.