



# **UPDATE FROM THE DOJ & SEC: Regulatory and Enforcement Priorities**

**Steve McClain, Chief, Complex Frauds, USAO NDGA**

**Michael Herskowitz, Chief, Cyber & Intellectual Property  
Crimes, USAO NDGA**

**Justin Jeffries, Associate Director of Enforcement,  
SEC Atlanta Regional Office**

# USAO Fraud Priorities

- Coronavirus (COVID-19) Fraud Task Force
- Transnational Elder Fraud Strike Force
- Procurement Collusion Strike Force
- Task Force on Market Integrity and Consumer Fraud

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DEPARTMENT OF JUSTICE

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ElderJustice  
INITIATIVE

# Cyber and Intellectual Property Crimes

- Computer Intrusions and Extortion
- Business Email Compromise (BEC)
- Nation-State Actors
- Insiders
- Dark Web Forums

# SEC Enforcement Priorities

- Protecting Retail Investors
- Financial Fraud/Issuer Disclosure
- Individual Accountability
- Coronavirus Steering Committee

# **COMPLIANCE AND COOPERATION**

# SEC Enforcement Cooperation Program

- Benefits of Cooperation
- Cooperation Factors
- Cooperation Credit
- Case Examples

# Principles of Federal Prosecution of Business Organizations (JM 9-28.000)

- Corporation's willingness to cooperate
- Existence and effectiveness of compliance program (at time of offense and charge)
- Timely and voluntary disclosure of wrongdoing
- Corporation's remedial actions

# ***Evaluation of Corporate Compliance Programs***

- Is the program well-designed?
- Is it being applied earnestly and in good faith? Is it being implemented effectively?
- Does the program work in practice?



# June 2020 Update to DOJ Guidance

- Is the program being applied earnestly and in good faith? **In other words, is the program being implemented effectively?**
- Is the program being applied earnestly and in good faith? **In other words, is the program adequately resourced and empowered to function effectively?**

# June 2020 Update to DOJ Guidance

- Tailored program
- Continuous improvement
- Third-party relationships
- Mergers and acquisitions
- Data analytics

# **Myths** - Cooperating with Law Enforcement in Cyber Matters

- FBI will show up in raid jackets/seize computers?
- We can't get the money back so what's the use?
- Privilege will be waived and trade secrets exposed?

# More Myths

- My company/client will need to disclose breach under state law, resulting in bad press.
- Criminal is most likely overseas, will never be caught anyways.
- Law enforcement is too busy to investigate our loss of \$20,000

# Avanir Pharmaceuticals

- Deferred Prosecution Agreement
  - \$7.8 million monetary penalty
  - \$5,074,895 forfeiture
- Substantial and ongoing cooperation
  - Produced text messages
  - Remedial measures
  - Enhanced compliance program

# SEC Enforcement Highlights

- SCANA Corporation
- Yahoo!
- Theranos and Tesla
- Equifax

# Cyber Successes

- Corporate Outreach
- Equifax Data Breach Indictment
- BEC group takedown in March 2020
- Romanian “Vishing” and “Smishing” Case



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