JP Morgan probe:is it a worthy lesson to learn?

Description

Bribery probe into JP Morgan hiring practice in China has drew extensive attention from both inside and outside of China. Web portals like Reuters (click here), Guardian (click here) have all run similar news on the topic.

Well, to a Chinese business man, what JP Morgan has done in its hiring practice is so normal, reasonable and even necessary. As a Chinese lawyer, I have mercy on JP Morgan while I do applaud for what SEC is doing against JP Morgan.

This is about how foreign companies doing business in and with China. I cannot help thinking of GSK bribery scandal that has not yet come to its end. These are not isolated cases involving high-profile foreign companies committing bribery in China.

Apparently, these malpractices should not be tolerated as they amount to unfair competition, distort of market mechanism and harm to society as a whole. GSK is a peculiar example manifesting the harm and damages bribery can cause to Chinese people and society.

Shanghai Landing Law Offices

However, I do have mercy on them. China is labelled as a country that works on various private connections rather than on the basis of rule of law. Almost in every aspect or field of business and life, interpersonal connections (esp those with government officials or high-ranking people in big state-owned companies or even state-affiliated hospitals) are in play and operating. Without connections, you may well bump your head when you deal with government agencies. This is Chinese society with Chinese culture. However, foreign investors have become accustomed to Chinese business environment and have further localized their practice in China. In other words, they have become bad and corrupt also. I understand that sometimes, they may have to do the bad things against their own wills.

Now the problem is that China is developing and progressing but it takes time for China to build a clean or better market. It may take decades.

It is my suggestion and advice that foreign investors in China shall restrain from bribery misconducts. It may help you to arrive at your goal temporarily but in a long run, such conducts will hurt the reputation of the companies and thus estrange consumers or clients with such companies. With the awakening of Chinese people for a better government, society and environment, such misconducts will be less and less tolerated. To some point, no one will really have mercy on such malpractice.

What you can do is to make sure your company has the necessary firewalls in place within your companies and make sure your employees will not cross red-lines which may invite real trouble.

(1) foreign investors esp those having large business presence in China shall draw up rules within the organization that are aimed to prevent criminal conducts/offenses by the employees. We see clients coming to Dacheng Law Firm seeking help in this regard. The lawyers in our Criminal Defense

Department will help clients to install certain policies to ensure that corporate business are run in compliance with Chinese laws, esp Chinese Criminal Law.

(2) after rules and policies are put in place, it is important that they are executed and enforced within the organization. Very often, companies have mountains of rules but seldom do they seriously enforce them. It is worth doing to have periodic due diligence into the overall practice of the companies with a view to finding out or digging up inappropriate business conducts that may give rise to criminal allegation or indictment.

To know more, please contact the author, Jason Tian.

Date Created
November 2013
Author
admin

Shanghai Landing Law Offices