

ENFORCEMENT LANDSCAPE IN BRAZIL

Latin America Healthcare Compliance Certification Program – Day 3

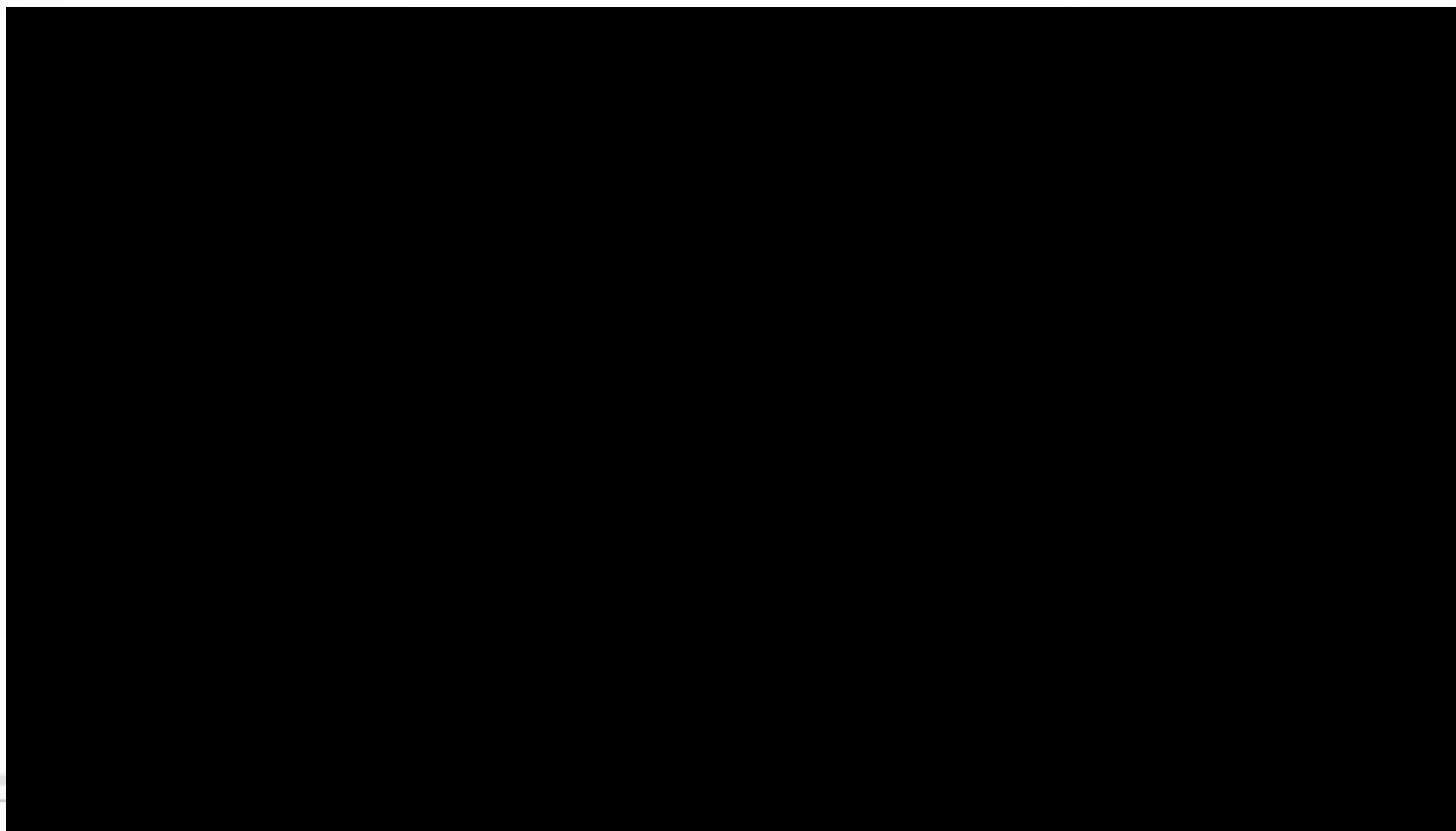
BENNY SPIEWAK

September 26th, 2018



WHAT'S GOING ON IN BRAZIL?

BRAZIL, HOUSE OF CARDS?



CORRUPTION HAS BEEN THE “THEME OF THE YEAR”

IT MAKES HEADLINES IN ALL NEWSPAPERS AND WEBSITES



FOLHA DE S. PAULO

Desde 1928
UM JORNAL A SERVIÇO DO BRASIL
DIRETOR DE REDAÇÃO: CÍVICO FRAZ FLEIJO
ANOS 111 • QUINTA-FEIRA, 5 DE MARÇO DE 2015 • R\$ 11,00
EDIÇÃO SP/SP • CIRCULAÇÃO 410 mil • R\$ 11,00

Governo quer poder para intervir em empreiteiras

Indício da proposta dos acordos que o governo quer fazer com as empreiteiras para pagar na Lava Jato inclui a adoção de medidas anticorrupção a partir do próximo ano.

CIÊNCIA
Pesquisadores acham na Etiópia fósseis do primeiro humano

ILUSTRADA
Primeira 'Yoruba Males' em análise para

Janot rejeita inquéritos sobre Dilma e Aécio

Procurador sugere que petista e tucano não sejam investigados na Lava Jato

Operador geral da República, Rodrigo Janot, rejeitou os inquéritos sobre Dilma Rousseff e Aécio Neves, do PSDB, no final de 2014.

the guardian

environment tech travel
europe US

Former Rio governor arrested over charges of 'cartelization' of public works

Sérgio Cabral accused by Brazilian federal prosecutors of facilitating \$65m in bribes over infrastructure contracts for World Cup and Olympics projects

O ESTADO DE S. PAULO

Sábado 28 DE DEZEMBRO DE 2016 R\$ 4,00 ANO 137 Nº 45000
FUNDADO EM 1913
JULIO MESQUITA (1913-1987)
edição de 23030 estado.com.br

Lava Jato prevê operações em 2017

Meirelles diz que não sacrificará ajuste fiscal por governadores

AMÉRICA SUFRE EL IMPACTO DEL LAVA-JATO

GRUPO DE JORNALISMO AMÉRICA

El "Lava Jato", la mayor operación contra la corrupción de las Américas, ya afecta al desarrollo de América Latina y el Caribe. Debido a las investigaciones, el sector privado de los países de América Latina y el Caribe, incluido el de los países de América Latina y el Caribe, se ha visto afectado por la corrupción.

LAVA-JATO



corrupção não em condições de investigação.

A investigação de um dos casos de corrupção em 2014, a respeito de um contrato de construção de uma estrada, foi o primeiro caso de corrupção em 2014.

Os investigadores da Polícia Federal, em Brasília, estão trabalhando para identificar os envolvidos no caso de corrupção em 2014.

Buenos Aires Herald

Battle over employment bill heats up

Opposition, unions press govt to speed debate as disputed legislation lands in Lower House

The Lower House formally began its debate on the controversial employment bill on Tuesday.

The bill, which would create a new body to regulate the labor market, has been a source of controversy since it was introduced.

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Sérgio Cabral, Ex-Governor of Rio de Janeiro

BY VINCE BREDENHART NOV 11, 2016

Former Rio governor Sérgio Cabral, 67, was arrested on Tuesday by federal police in Rio de Janeiro.

Cabral, who was governor of Rio de Janeiro from 2007 to 2014, was arrested on Tuesday by federal police in Rio de Janeiro.

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NEWS

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BRAZILIAN POPULATION ERUPTING IN PROTEST



**WE HAD A PRESIDENT IMPEACHED
DUE TO ACCOUNTABILITY MISCONDUCTS...**



IMPORTANT POLITICAL PEOPLE BEING ARRESTED



COMPANIES GETTING FINED AND BUSINESSMEN BEING HELD LIABLE



OPERATION CAR WASH

THE CORRUPTION SCANDALS IN BRAZIL HAVE LED SOCIETY TO MAKE TOUGHER ANALYZES OF **CRIMES OF CORRUPTION**.

TAKEN AS A MILESTONE TO COMBAT THESE DEVIATIONS, OPERATION “**CAR WASH**” TRIGGERED A SERIES OF OTHER INVESTIGATIONS.

BUT MORE THAN THAT, IT HAS CHANGED THE WAY BRAZILIANS IN GENERAL, PUBLIC AGENTS, POLICE ENFORCEMENT AND THE JUDICIAL SYSTEM TACKLE THE “**SYSTEM**”.



PETROBRAS

OPERATION CAR WASH

RESULTADOS DA OPERAÇÃO LAVA JATO

2.476 PROCEDIMENTOS INSTAURADOS

962 MANDADOS DE BUSCAS E APREENSÕES,
227 MANDADOS DE CONDUÇÕES COERCITIVAS,
115 MANDADOS DE PRISÕES PREVENTIVAS,
121 MANDADOS DE PRISÕES TEMPORÁRIAS E
6 PRISÕES EM FLAGRANTE

548 PEDIDOS DE COOPERAÇÃO INTERNACIONAL, SENDO **269** PEDIDOS ATIVOS PARA **45** PAÍSES E **279** PEDIDOS PASSIVOS COM **36** PAÍSES

176 ACORDOS DE COLABORAÇÃO PREMIADA FIRMADOS COM PESSOAS FÍSICAS

11 ACORDOS DE LENIÊNCIA E **1** TERMO DE AJUSTAMENTO DE CONDUTA

81 ACUSAÇÕES CRIMINAIS CONTRA **346** PESSOAS (SEM REPETIÇÃO DE NOME), SENDO QUE EM **45** JÁ HOUVE SENTENÇA, PELOS SEGUINTE CRIMES:

- CORRUPÇÃO
- CRIMES CONTRA O SISTEMA FINANCEIRO INTERNACIONAL
- TRÁFICO TRANSNACIONAL DE DROGAS
- FORMAÇÃO DE ORGANIZAÇÃO CRIMINOSA
- LAVAGEM DE ATIVOS, ENTRE OUTROS

ATÉ O MOMENTO SÃO **211** CONDENAÇÕES CONTRA **139** PESSOAS, CONTABILIZANDO **2.013** ANOS, **8** MESES E **20** DIAS DE PENA

9 ACUSAÇÕES DE IMPROBIDADE ADMINISTRATIVA CONTRA **50** PESSOAS FÍSICAS, **16** EMPRESAS E **1** PARTIDO POLÍTICO PEDINDO O PAGAMENTO DE **R\$ 14,5 BILHÕES**

VALOR TOTAL DO RESSARCIMENTO PEDIDO (INCLUINDO MULTAS): **R\$ 38,1 BILHÕES**

OS CRIMES JÁ DENUNCIADOS ENVOLVEM PAGAMENTO DE PROPINA DE CERCA DE **R\$ 6,4 BILHÕES** **R\$ 12,3 BILHÕES** SÃO ALVO DE RECUPERAÇÃO POR ACORDOS DE COLABORAÇÃO, SENDO **R\$ 846,2 MILHÕES** OBJETO DE REPATRIAÇÃO **R\$ 3,2 BILHÕES** EM BENS DOS RÉUS JÁ BLOQUEADOS

dados atualizados até 10 de setembro de 2018

HOW ABOUT HEALTHCARE?



OPERATION COMPOUND FRACTURE

Operation investigated fraud in bids for the supply of prostheses to the National Institute of Traumatology and Orthopedics ("INTO"), linked to the **HEALTH MINISTRY (MS)**.

Federal Prosecutor's Office (**MPF**) accused Miguel Iskin and Gustavo Estellita (members of Oscar Iskin) and former Secretary of Health of Rio de Janeiro, Sergio Cortes, of commanding a cartel of distributors and service providers that would have defrauded the bidding of the **MS** under the management of Cortes (2007-2013), Sérgio Cabral and Into.

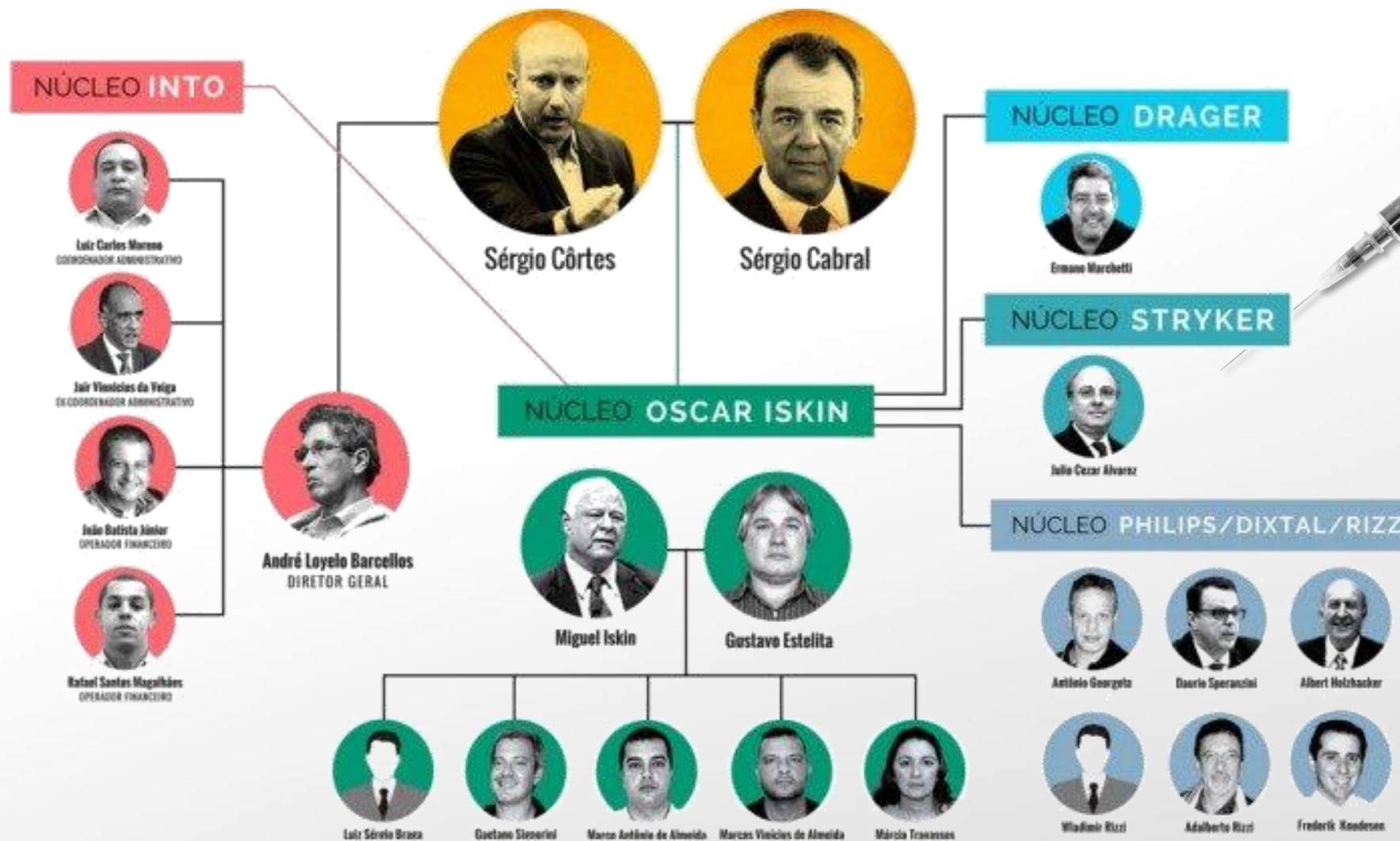
The cartel favored the company **OSCAR ISKIN** (one of the largest suppliers of prostheses in Rio) in exchange for the payment of bribes. Deviations reached **R\$ 300 MILLION**.

Bribes amounted to 0% of the contracts. 5% for Sérgio Cabral and 2% for Cortes. The remainder divided among the others involved in the scheme.

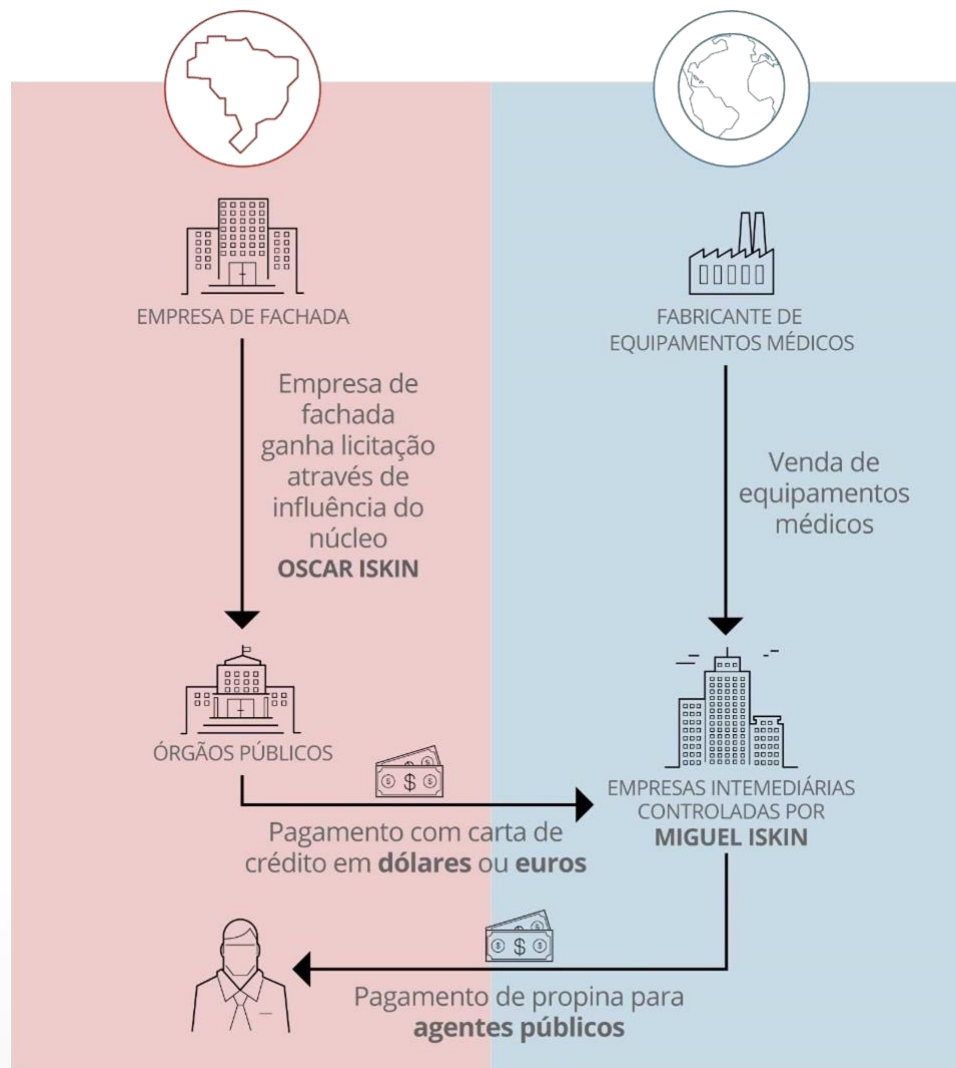
ARRESTED: Miguel Iskin, Gustavo Estellita, and Sergio Cortes.



OPERATION COMPOUND FRACTURE

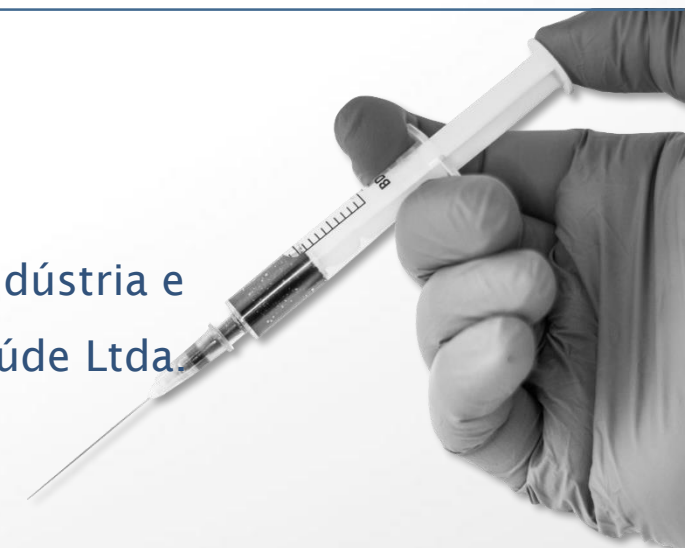


OPERATION COMPOUND FRACTURE



COMPANIES INVESTIGATED:

- Philips Medical Systems Ltda
- Johnson & Johnson do Brasil Indústria e Comercio de Produtos para Saúde Ltda.
- Orthofix do Brasil Ltda.
- Stryker do Brasil Ltda
- Dixtal Biomédica Indústria e Comércio Ltda.
- Rizzi Comércio Importação, Exportação e Representação Ltda Epp.
- Avalena Moses Trading
- Beckfel
- Life Cargo
- Life Group



OPERATION COMPOUND FRACTURE

13 ARREST WARRANTS

43 SEARCH AND SEIZURE WARRANTS

GILMAR MENDES RELEASED ENTREPRENEURS MIGUEL ISKIN AND GUSTAVO ESTELLITA
WHO HAVE NEW ARREST WARRANTS ISSUED.

SÉRGIO CÔRTEZ WHO HAS BEEN ARRESTED WITH ISKIN AND ESTELLITA, WAS
SUMMONED TO TESTIFY.

THE SCHEME WOULD HAVE LASTED UNTIL TODAY HAD IT NOT BEEN INTERRUPTED BY
THE ARREST OF THE “TRIO”



“Untouchables”?

NOT ANYMORE

CONSCIENCE IS CALLING, AND THE “JEITINHO” MUST GO.



**STILL, WE HAVE TOO MANY
CRIMES GOING UNPUNISHED.**

WHY?

- **DISCOVERY**
- **PROOF**
- **DISMISSALS**
- **LENGHTY PROCEDURES**
- **STATUTES OF LIMITATION**
- **LOW PENALTIES**
- **PARDONS**

BRAZIL'S CULTURE



CUTTING LINE



**BUYING COUNTERFEIT
PRODUCTS**



**ILLEGAL PARKING
TRAFFIC VIOLATIONS**



STEALING CABLE



**BRINGING UNDECLARED
GOODS FROM ABROAD**



CHEATING ON TAXES



**ENFORCEMENT IS STILL
DEFICIENT, AND BRAZILIAN
CULTURE HASN'T CHANGED SO
COMPANIES HAVE TO BE
PREPARED IN ORDER TO
THRIVE IN BRAZIL.**

BEST PRACTICES

1

SCREEN EACH THIRD PARTY

Companies that take the time to conduct proper **BACKGROUND CHECKS** on each third party are well-positioned to build trustworthy relationships. These companies usually collect and analyze data on third-party executives, **REPUTATION**, **GOVERNMENT DEALINGS**, **PAST CONVICTIONS**, payment accounts, anti-corruption policies, and etc.

2

CONDUCT THOROUGH RISK ASSESSMENTS

Different third parties pose different **LEVELS OF RISK**. It's important to understand these risks by assessing them, and then categorizing and ranking third parties accordingly (**HIGH RISK**, **LOW RISK**, and **MODERATE RISK**). This approach helps determine the appropriate due diligence processes that need to be applied. For instance, a third party performing a high-risk activity i.e. customs clearance, government sales, would need a greater level of audits and investigations than one performing a low-risk activity i.e. cleaning services.

BEST PRACTICES

3

MAINTAIN A COMPREHENSIVE THIRD-PARTY DATABASE

A good practice is to maintain a comprehensive database of all third parties with clear definitions of their roles, responsibilities, and lines of reporting. So, if any issue arises, it can be traced back to the source. The database should enable easy access to and search of third-party licenses, questionnaires, analyses, background checks, certifications, and other important documents.

4

DEVELOP A CODE OF CONDUCT AND POLICIES, AND COMMUNICATE THEM EFFECTIVELY

Codes of conduct and policies helps third parties understand a company's rules and boundaries for ethical behavior. What is important is the way this content is communicated. Providing training programs is essential. The key is to focus on what behavior is expected of third parties, especially in "grey" situations – such as when one has to identify the difference between gift giving as a cultural norm, and gift giving as a means to win business.

BEST PRACTICES

5

IMPLEMENT CONTROLS

Third parties are responsible for establishing and monitoring their own compliance controls. But the companies who hire them are also required to implement **PREVENTIVE, DETECTIVE, and CORRECTIVE CONTROLS** to keep third-party risks and compliance violations in check. Controls need to be monitored, measured, and tested at regular intervals.

6

PERFORM DUE DILIGENCE

A risk-based audit is a good idea as it optimizes **COSTS** and **EFFICIENCY**. Many companies choose different forms of audits including surveys, due diligence checklists, interviews with employees, and certifications from third-party executives. Whatever the method, it is important that the issues identified during the audit are addressed and remediated in a collaborative manner with the third parties

THIRD PARTIES

The average company has numerous third-party relationships i.e. a supplier, a distributor, a lawyer. These third parties are often necessary, yet, they also bring **RISKS**

Third-party risks which are not identified and mitigated in time can snowball into **SERIOUS ISSUES** which may affect a company's **REPUTATION**, regardless if it is the third party's fault or not.

Some of these risks are usually assessed during the hiring process to determine whether or not they are doing business with someone they can **TRUST**.

It is nearly impossible to find an unappealable conviction from **ABAC** practices, therefore, the threshold for **DD** in Third Parties must be well defined by the Company and other criteria such as reputation should be taken into account.



TAKEAWAYS

- Knowledge of the **INDUSTRY**
- Knowledge of the **LOCAL MARKET**
- Knowledge of the **COMPANY'S BUSINESS MODEL** and procedures
- Understanding of the **CULTURE**
- **CREATION** and implementation of compliance controls
- Evaluation and **IMPROVEMENT** of the compliance controls



A photograph of a small brown and white dog, possibly a Jack Russell Terrier, sitting at a white desk. The dog is looking directly at the camera with a questioning expression, its large ears perked up. Its right front paw is raised to its ear. In front of the dog is a white computer keyboard. To the right of the dog, a silver pen and a white mouse are visible on the desk. A dark blue horizontal bar is overlaid on the right side of the image, containing the word 'QUESTIONS?' in white capital letters.

QUESTIONS?

THANK YOU!



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