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The sheriff at Siemens sees an endless battle

By Carter Dougherty

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MUNICH: Peter Solmssen may have an important title as general counsel of Siemens, but he is just one of about 400,000 employees at the German engineering giant. And that is why his job as the top enforcer of anti-corruption rules for the global company is so difficult.

On a recent swing through Latin America, Solmssen, who joined Siemens in 2007 after nine years at General Electric, got a taste of what he was up against when he met with a group of employees in Mexico. After briefly explaining the need for Siemens to change its ways after an extensive bribery scandal two years ago, Solmssen took questions.

One employee promptly stood up and asked, point-blank, who exactly this American guy was.

"When you're an executive of a huge company," Solmssen said, recalling the moment in a recent interview, "you're not in the daily life of some people who are in the field."

For many years, corruption ran wide and deep at Siemens. It is Solmssen's task to root out that infection at a huge company where new rules and procedures - and a lot of speechifying on the road - cannot ensure that everyone gets the message.

And the authorities are closely watching what Solmssen is doing.

The U.S. Department of Justice is nearing the end of an extensive investigation into bribery charges involving Siemens, and company officials up to the chief executive, Peter Löscher, have made the rounds in Washington to prod the process forward.

Proving that it is serious about fighting corruption would help the company in a settlement that could come as early as November, according to people briefed on the inquiry.

Apart from a large fine, those people say, a central element of the settlement is likely to be years of monitoring to ensure that Siemens complies with anti-bribery laws in the United States and elsewhere.

In recent years, the U.S. authorities have concluded that nothing persuades defendants to cooperate more than a monitoring program paid for by the companies themselves.

"It is very effective from the Justice Department's perspective," said Don Zarin, who heads the anti-bribery practice at Holland & Knight in Washington. "The companies tend to consider it onerous and expensive."

By all accounts, Siemens can make a persuasive case to American investigators that it has mended its ways.

According to interviews with people who work there, consultants who do business with Siemens, internal documents and independent analysts who have looked at the efforts, Siemens has pushed through a root-and-branch reordering of its once-feeble compliance program.

"There is a sea change," said Michael Hershman, who helped Siemens create its anti-corruption program.

But like many others, he cautions that even with the best intentions, the company will need time to close the gap between what is written and what is practiced.

"There are new processes, new people and new procedures," said Hershman, a founder of Transparency International, the global anti-corruption monitor. "But that does not make a difference in the world unless there is a change in culture."

The corporate culture of Siemens is what let many employees believe, by all accounts, that bribes were not only acceptable but also implicitly encouraged.

After a two-year investigation by the German authorities, the first round of hearings in a Munich courtroom has detailed endless activities by Siemens to create slush funds in Switzerland and to direct underlings to pay off customers and then destroy the paper trail. The company's size, with operations in 190 countries, may have also encouraged a tendency to skirt the law, which is one reason Solmssen calls his experience in Mexico "an amusing but sobering moment."

In a profession where reputation is everything, Solmssen, 53, can claim a powerful professional pedigree. For nine years until Löscher chose him to handle Siemens's legal affairs in 2007, Solmssen worked at General Electric, which is widely considered to be a pioneer in compliance efforts. Solmssen is also an old Germany hand, a grandson of the chairman of Deutsche Bank and a former corporate lawyer in Frankfurt.

In a struggle to rehabilitate its image since the scandal erupted, Siemens has draped a dense net of rules over the company to familiarize everyone with the basic precept that money-for-business is no longer standard practice. In 2008, about 276,000 people participated in Web-based training, while about 45,000 took training in person, according to Siemens.

That is only a start, Solmssen concedes.

"Healthy compliance cultures," he said, "depend on a more values-based leadership where people don't need to look at the rule book, where they know intuitively what the right thing to do is."

But Siemens is not ignoring one of Ronald Reagan's favorite maxims: Trust but verify. The company's compliance staff has grown to slightly fewer than 500 in October 2008 from 86 in 2006 and includes a former Interpol investigator and other experienced law enforcement people, Solmssen said.

Employees can now tip off Siemens lawyers to misdeeds through ombudsmen stationed around the world or online. It does not take much to set off the alarm.

"Sometimes what is enough proof for us to ask someone to leave is not enough under local labor laws to fire them," Solmssen said. "But we do it anyway."

Siemens has developed a sophisticated Web portal for employees to evaluate their dealings with customers and consultants, who often served in the past as bag men in securing contracts. A freewheeling marketer in Nigeria bidding for a contract to sell Siemens products would get more attention than almost any other person, for example.

By contrast, Solmssen said, "if you're selling to Wal-Mart, it's a different risk analysis."

The process creates multiple opportunities to reject a sale or contract while creating an electronic paper trail that can be audited.

Fine and good, say the experts, but the problem still comes back to the culture of Siemens.

Peter Fries, a lawyer in Nuremberg who works with Transparency International, said some members of the old guard at Siemens remain unconvinced. The area around Nuremberg is thick with Siemens employees, suppliers and customers, and he says many are worried "that the new system might not lead to the best financial results."

Solmssen rejects such talk, noting that Siemens has delivered good results in the past two years, despite its cleaning up and despite the global economic slowdown. But this refrain will not go away in Germany, which was much slower than the United States to adopt anti-bribery rules like the Foreign Corrupt Practices Act.

Benjamin Heineman Jr., a former general counsel at General Electric and the man who hired Solmssen there, said a recent trip to Berlin to meet with German anti-corruption advocates and companies convinced him that change would come only through determined effort.

"There is still skepticism in the German biz community about whether you can do business without bribing," Heineman said.

Solmssen does not rule out the possibility that further evidence of bribery could be uncovered at Siemens. But he insists that the kind of far-reaching scandals that shook Siemens to its core are a thing of the past.

"Are we confident in stamping out corruption?" Solmssen said. "We've made substantial progress. It's never over."

But he added, "We are quite confident we have eliminated anything systemic."

Correction:

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