

# **Training: Corporate Criminal Liability**

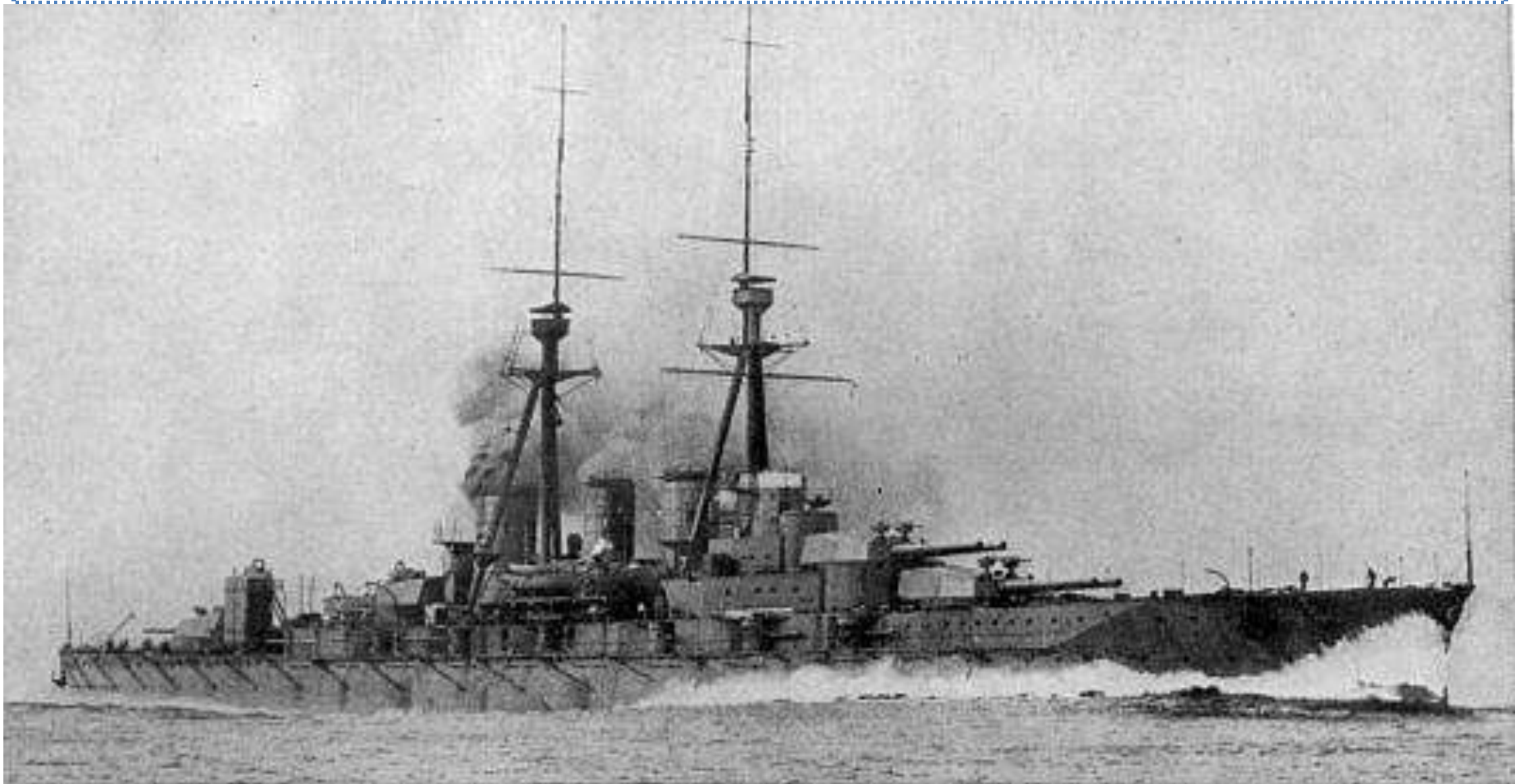
Thursday, 23 February 2017

## **The Siemens case**

Dr. Tilman Hoppe

Former Judge, Germany

# 1914 Japan scandal



until 1997

Secret code for bribe payments?  
“APP”  $\approx$  2,55% of price in bribes  
(A=2, P=5)

15 November 2006

Raid of headquarter in Germany and  
Austria with several hundred  
investigators

29 November 2006

Audit Committee meeting

Financial year 2006

- Revenue > 87 billion €
- 475,000 employees
- 190 countries
- 6 staff for compliance

- 2007
- 1,750 interviews Siemens employees and others
  - 800 informational briefings for background information
  - 82 million documents e-searched
  - 14 million documents reviewed
  - 38 million financial transactions analysed
  - 10 million bank records reviewed

|                                |   |
|--------------------------------|---|
| 14 February 2007               | Arrest of consultant: received 14 million € since 2001 for “services”   |
| 25. April 2007<br>30 June 2007 | Key managers resign<br>1.4 billion € in bribes traced   |
| 1 July 2007                    | <ul style="list-style-type: none"> <li>- New Chief Compliance Officer</li> <li>- Anti-Corruption Programme</li> </ul> |
| October 2007                   | First judgement Criminal Court Munich: 201 million €  |

2008-2016

- Criminal and civil trials against several former managers
- Convictions, settlements, acquittals: fines, suspended prison sentences
- 1 former manager commits suicide

December 2008

- US settlement: 800 million USD
- German fine: 395 million €



**Staatsanwaltschaft München I**

Geschäftszeichen

München, den

**ENTWURF !!!**

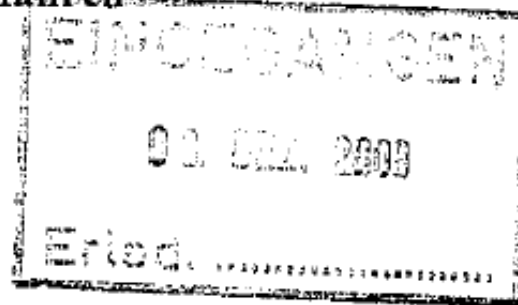
**In dem Ordnungswidrigkeitsverfahren**

gegen die

**Siemens Aktiengesellschaft,**

**– Nebenbetroffene –**

**Wittelsbacherplatz 2, 80333 München, gesetzlich vertreten durch den Vorstand**



Rechtskräftig seit

.....  
München,

.....  
Urkundsbeamter der  
Geschäftsstelle



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**U.S. SECURITIES AND EXCHANGE  
COMMISSION,  
100 F. Street, NE  
Washington, D.C. 20549**

**Plaintiff,**

**v.**

**SIEMENS AKTIENGESELLSCHAFT  
Wittelsbacherplatz 2  
D-80333 Munich  
Federal Republic of Germany**

**Defendant.**

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Case: 1:08-cv-02167  
Assigned To : Leon, Richard  
Assign. Date : 12/12/2008  
Description: General Civil

August 2012

Settlement Greece: 330 million €

January 2013

Taiwanese whistleblower sues Siemens for wrongful dismissal (informed superiors about corruption in November 2010; case dismissed)

November 2014

Criminal trial in Greece (still pending)

Total cost so far: 2.9 billion €  
(including lawyers, auditors)

Adequate fine for

2017

- 1.4 billion € in bribes?
- 4,300 bribes average 325,000 €
- Profit > 1,1 billion €



# Sufficient Prevention

a. commitment from senior management and a clearly articulated policy against corruption;

- b. a code of conduct and compliance policies and procedures;
- c. an internal oversight mechanism;

d. risk assessments;

e. trainings and continuing  
advice;

- f. availability of incentives and disciplinary measures;
- g. third-party due diligence;



- h. confidential reporting;  
internal investigation  
mechanisms;
- i. periodic testing and  
review;

j. pre-acquisition due diligence and post-acquisition integration.

# Siemens:

- Chief-Compliance-Officer“
- 614 lawyers, experts,  
internal investigators
- zero tolerance

- “Business-Partner-Compliance-Due-Diligence”.
- Details on business partners, payments, name changes, etc.

- higher risk = higher level of approval
  - Abandoned: Expertises of local authorities
- ➔ higher number of orders

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