**Sample Discussion Answer and Response to Classmates**

**Note: Subject Matter May Not Be Related to Class**

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| **Sample Answer** | **Scenario 4: Foreign Corrupt Practices Act**    Even though the Foreign Corrupt Practices Act was passed over 30 years ago, well-known companies such as Siemens, Pfizer, Avon and Tyson Foods appeared in the news for violation of the FCPA. In 1977, the United States was the first country to pass a law that prohibited U.S. citizens and organizations from bribing officials of foreign countries (Schaffer, Agusti & Earles, 2009). Enacted in 1977, the Foreign Corrupt Practices Act (FCPA) prohibited payments to government officials in foreign countries for the purpose of obtaining or maintaining business (United States Department of Justice, n.d.). The purpose of the FCPA was to eliminate bribery of foreign officials, rebuild public trust in the integrity of American businesses, and modify the business practices of American companies doing business overseas (Fabiano, 2005).  As a result of various situations in which American companies were found to have made payments to foreign officials for certain favors during the 1970s, the Securities and Exchange Commission initiated a voluntary program in which companies could disclose violations and avoid prosecution (Schaffer et al., 2009). In 1997, the Organization for Economic Cooperation and Development (OECD) enacted a law similar to the FCPA that classified bribery of foreign government officials as a crime (Schaffer et al., 2009). It is important to note that U.S. laws do not usually apply to actions outside of the country; however, the FCPA is one that U.S. companies must follow in their international business transactions.  The difference between a bribe and facilitation fee may be difficult to determine in some situations; therefore, the Department of Justice and Securities and Exchange Commission provided some documentation with examples designed to clarify the two terms. The FCPA defines bribery as “offering to pay, pay­ing, promising to pay, or authorizing the payment of money or anything of value to a foreign official in order to influ­ence any act or decision of the foreign official in his or her official capacity or to secure any other improper advantage in order to obtain or retain business” (DOJ & SEC, 2012, p. 10). The FCPA provides an exception for legitimate facilitation fees. A facilitation fee or payment is one that is paid to further a routine governmental action. In other words, a facilitation payment is made ensure government employee carry out or expedite the work they are already legally bound to perform (DOJ & SEC, 2012, p. 25). Examples of some of the facilitation payments might include obtaining licenses, processing visas, providing police protection, scheduling inspections and similar actions (DOJ & SEC, 2012, p. 25).  References  Fabiano, P. (2005). Panel on domestic/international initiatives. *Santa Clara Journal of International Law, 3*(2), 247-261.    Schaffer, R., Agusti, F. & Earles, B. (2009). *International business law and its environment* (7th ed.). Mason, OH: South-Western Cengage Learning.  United States Department of Justice. (n.d.). Foreign Corrupt Practices Act. Retrieved from http://www.justice.gov/criminal/fraud/fcpa/  United States Department of Justice & United States Securities and Exchange Commission. (2012). A resource guide to the U.S. Foreign Corrupt Practices Act. Retrieved from https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf |
| **Sample Response to Classmates** | Joey,  I noted your comment about no one going to jail in the Walmart case.  Corporations can pay fines for the criminal acts, but the actual corporation cannot go to jail.  However, executives could go to jail if they were aware of the wrongdoing.  Corporate officers may be criminally liable for the acts of their employees under the responsible corporate officer doctrine for violation of strict liability statutes related to public welfare such as those enforced by the FDA and EPA (Twomey, Jennings & Greene, 2017).   Officers are liable if they authorized the acts or if they knew about the acts and did nothing (Twomey et al., 2017).  Karin  Twomey. D.P., Jennings, M.M., & Greene,S.M. (2017).  *Anderson’s business law and the legal environment: Comprehensive volume* (23rd ed.). Mason, OH: South-Western Cengage Learning. |