

Reynolds, David A

From: Reynolds, David A
Sent: Friday, March 12, 2010 10:32 PM
To: Perreard, Jean-Luc
Subject: Re:
Sensitivity: Confidential

JLP,

I think this is one of the issues we need to discuss in HK. The facts as outlined by Nigel and the exchanges between him and some members of BI need to be addressed and clarified. Of more immediate concern are the potential policy implications of the directions outlined in this letter. If taken to apply globally as written, we may have to shut down or dramatically change much of what we do. The sharing of information - technically "informally" due to the present lack of a MOU - between us either directly or via our service providers and the MSMD, MPS, and AIC in China; and the GMPA, CGA, NPA, Baosan, etc in Taiwan - although a MFA letter from 2005 applies in this instance - are and have been for well over ten years at the core of our program, as well of those of the other tobacco firms. The same can be argued for all seizure data passed to us by enforcement agencies globally, to include in the EU in follow up to OLAF Notifications, in instances in which a specific MOU is not in force.

I would suggest it best to specify how/why the situation in this case is different so that this direction does not have possibly unintended wider implications.

- Dave

David A. Reynolds
Vice President
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From: Espin, Nigel
To: Dugast, Francois
Cc: Perreard, Jean-Luc; Mulvey, Mark; Reynolds, David A
Sent: Fri Mar 12 22:13:58 2010
Subject: FW:

Dear Francois

I attach the final draft of the letter to Jovan Sordan for you to check.

Please let me know if you are ok with this.

3/15/2010

Best regards

Nigel

Phone: 00 41 22 703 0635
Telefax: 00 41 22 703 3635
Cellphone: 00 41 78 780 0480

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<http://oasis.jti.com/corpsecurity/>

To report a crisis or serious incident, go to
<http://oasis.jti.com/>

and click 'crisis management'



From: de Moerloose, Severine
Sent: Friday, March 12, 2010 3:08 PM
To: Espin, Nigel
Subject:

Best Regards,

Séverine de Moerloose
Corporate Security Manager

Phone: +41 22 703 0471
Telefax: +41 22 703 3471
Cellphone: +41 78 655 7967

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Reynolds, David A

From: Espin, Nigel
Sent: Friday, March 12, 2010 10:14 PM
To: Dugast, Francois
Cc: Perreard, Jean-Luc; Mulvey, Mark; Reynolds, David A
Subject: FW:
Importance: High
Sensitivity: Confidential
Attachments: Letter Nigel DSA Associates.doc

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Nigel

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3/15/2010

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Nigel Espin

Director Corporate Security

Darlington, Steinberg & Associates
Mr. Sordan
Dositejeva 21
11000 Beograd
Serbia

Geneva, March 12th, 2010

Dear Mr. Sordan,

Thank you for travelling to Geneva to meet with Colin Proctor and me.

I believe it would be useful for me to confirm the position we outlined to you at the conclusion of our discussions.

I have spoken to Iain Hughes who has confirmed to me that he received an electronic copy of your company's spreadsheet, which contained information proprietary to a statutory investigative agency. Iain has informed me that he has returned the file to you.

Whilst I understand your position that you came into possession of the information lawfully, JTI does not seek to obtain, retain or otherwise be privy to information that is proprietary to any statutory investigative agency through a third party informally or unofficially. Further, I informed you that no employee or agent of JTI has any authority to task or otherwise request you to seek to obtain such information and that any such request made to you should be reported to me at the earliest opportunity.

Yours sincerely,

Nigel Espin
Director

Reynolds, David A

From: Perreard, Jean-Luc
Sent: Thursday, March 11, 2010 6:04 PM
To: Reynolds, David A
Cc: Mulvey, Mark; Espin, Nigel; Hughes, Iain; Payne, Steve; Monteith, Ian; Dugast, Francois
Subject: RE: Information from Jovan Sordan
Importance: High
Sensitivity: Confidential

Dave,

Obviously – I pressed the wrong key and sent out an “empty document” to you.

The directive of Senior Management is coming from me and this was discussed thoroughly with Mark and Nigel. We need to use common sense when dealing in these circumstances and act extremely carefully.

As for my guidance – here is the way I would like this case is handled – as you have seen it – Nigel has provided clear instructions to Iain and these instructions have to be followed to the letter. So, I would appreciate if you could pick up the phone and discuss this matter with Nigel and make sure that this case is handled properly and according to what needs to be done to put this case behind us. Use the phone as I do not believe that lengthy e-mails will solve this sort of issue.

Then, if there is a need to follow up by an e-mail to communicate any further action or decision – you and Nigel can take care of it.

Last but not least, this matter clearly demonstrates that we still have a lot of room for improvement in what we are doing in the field and that we must train our people accordingly during the induction programs – about the do and don't. We may want to revisit this part in the future in order to avoid similar situation.

Jean-Luc Perréard
Corporate Compliance
Anti-Illicit Trade
Phone: +41 22 7030724
Mobile: +41 792171504

From: Perreard, Jean-Luc
Sent: 2010-03-11 09:52
To: Reynolds, David A
Cc: Mulvey, Mark; Espin, Nigel; Hughes, Iain; Payne, Steve; Monteith, Ian
Subject: RE: Information from Jovan Sordan
Sensitivity: Confidential

Jean-Luc Perréard
Corporate Compliance
Anti-Illicit Trade
Phone: +41 22 7030724
Mobile: +41 792171504

3/12/2010

From: Reynolds, David A
Sent: 2010-03-11 03:13
To: Hughes, Iain; Payne, Steve; Monteith, Ian
Cc: Perreard, Jean-Luc
Subject: RE: Information from Jovan Sordan
Importance: High
Sensitivity: Confidential

Gents,

You need to have a sit down with Jovan, which I believe will happen nonetheless on other topics. The bottom line is we need some clarity on how/where he's getting his information. If he's obtaining it illegally – that is, he's paid government officials for it – then this must be documented and we have to terminate his services immediately, which will obviously impact the other projects he is working on for us and CS. We can't leave this question "open." We need to know if he is trustworthy or if he's breaking any laws when acting on our behalf.

If, on the other hand, the information is being shared with him legally and in accordance with the rules and regulations of the agency concerned, then this needs to be documented and we then need to establish direct contact with the officer(s) or unit concerned. The allegations are simply too serious to simply drop preemptively and if this agency is sharing this information with us (via Jovan) in the expectation that we will conduct some sort of good faith follow up, then we place ourselves in potential legal peril if we simply ignore their approach to us, albeit via a third party. Obviously for us to do anything, we must/must address the foregoing regarding the legality of Jovan's dealings with the agency concerned, establish a more formal and legally clear and defensible relationship for the sharing of information, and then address the key information requirements that will allow us, Legal, CS, and Compliance to clarify the nature of the ties these JTI employees have with purported smugglers. Again, this may be (and hopefully is) simply nothing at all, but we owe it to the employees concerned to clear their names, or, if there is untoward behavior, pass the information to the appropriate company officer(s) for immediate and full follow up.

We/I also need to address the following comment in Nigel's email - "JTI has no desire to obtain, retain or otherwise become privy to information proprietary to any statutory investigative agency." This comment – if a reflection of a directive from senior management - has potentially very serious implications for how we work since we share – two ways – information with law enforcement every day. The emails I/we receive from OLAF telling us the details and results of the controlled deliveries and seizures is information proprietary to an investigative agency, as is anything we get from agencies helping us in OLAF Notification follow ups, and seizure reporting from Spain, Italy, and elsewhere. This same exchange occurs with agencies globally either directly or via SPs working on our behalf – the entire Taiwan DME Program, for example, is based on information passed to our SPs by local law enforcement, while a similar situation is the core of the China PRE Program.

I cc JLP on this email in case he has any further guidance on this matter or the proposed follow up on our part.

All the best - Dave

Main Entry: ¹pro·pri·e·tary



Pronunciation: \prə-'prī-ə-,ter-ē\

Function: *noun*

Inflected Form(s): *plural* pro·pri·e·tar·ies

3/12/2010

Etymology: Middle English *propietarie*, from Anglo-French, from Medieval Latin *propietarius*, from Late Latin, adjective

Date: 15th century

1 : one that possesses, owns, or holds exclusive right to something; *specifically* : PROPRIETOR 1

2 : something that is used, produced, or marketed under exclusive legal right of the inventor or maker; *specifically* : a drug (as a patent medicine) that is protected by secrecy, patent, or copyright against free competition as to name, product, composition, or process of manufacture

3 : a business secretly owned by and run as a cover for an intelligence organization

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From: Espin, Nigel
Sent: Wednesday, March 10, 2010 11:36 PM
To: Hughes, Iain
Cc: Perreard, Jean-Luc; Mulvey, Mark; Reynolds, David A; Payne, Steve; Proctor, Colin
Subject: Information from Jovan Sordan
Importance: High
Sensitivity: Confidential

Confidential

Dear Iain

To confirm our conversation.

This morning Colin and I met with Jovan Sordan. As a result of our conversation with him and my subsequent conversation with you it is apparent that at a meeting with you in Belgrade some two weeks ago he gave to you an electronic copy of a spreadsheet created by his company. That spreadsheet, it has now become apparent, was created from information that he has informed me was obtained from a contact in a statutory investigative agency. Despite the fact that Jovan insists he came by the information in a lawful manner, you should return the spreadsheet to Jovan forthwith, explaining to him that JTI has no desire to obtain, retain or otherwise become privy to information proprietary to any statutory investigative agency.

You should also delete any copies of the spreadsheet or information gleaned from it from JTI systems and inform Jovan in writing that this has been done.

3/12/2010

Once this has been done please confirm to me in writing.

Best regards

Nigel

Phone: 00 41 22 703 0635

Telefax: 00 41 22 703 3635

Cellphone: 00 41 78 780 0480

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Reynolds, David A

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To: Hughes, Iain; Payne, Steve; Monteith, Ian
Cc: Perreard, Jean-Luc
Subject: RE: Information from Jovan Sordan
Importance: High
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Reynolds, David A

From: Reynolds, David A
Sent: Wednesday, March 10, 2010 10:20 AM
To: Reynolds, David A
Subject: FW: Names of JTI Employees Recovered from Persons Involved in Smuggling
Sensitivity: Confidential

Memorandum for the Record

The evening of 9 March 2010, I received two telephone calls from Iain Hughes, the first of which at least also included Steve Payne, during which Hughes and then Payne said that they had been called and then "ordered" by Nigel Espin, Director of Corporate Security, that Hughes and his investigations service provider who provided the below information report to Geneva for a de-briefing. I told both Payne and Hughes that I had received no calls from Espin and that no one had asked me whether either of them should respond in such a manner. I also explained that I had sent the email with the information from the service provider to Colin Proctor, who runs internal investigations, not/not to Espin, and that I did not understand why Espin was now involved in this case. I told Payne and Hughes that until Espin called me and explained what was going on that they should demure from following his orders. During a subsequent call from Hughes, he explained that Espin had now told him that his (Hughes) presence in Geneva was not required, that he (Espin) had identified the service provider (Hughes claimed that neither he nor Payne gave Espin the name of this person), and that Espin had ordered this service provider to report to Geneva in order to be debriefed. According to Hughes, Espin that complained about the nature of the email that I sent, that it was not done in the correct manner, and that he had previously been accused of smuggling. I explained to Hughes that he should not worry since I sent the email and that it went – according to company policy – to the head of the internal investigations unit and the Chief Compliance Officer. I also stated that I did not understand why Espin was now involved in this case, how he identified the name of the source, and why he felt the need to "debrief" this person in Geneva vice waiting for the additional information I outlined below would be acquired. I also noted that the only person other than myself, Hughes, and Payne involved in this case who knows the name of the source is Richard K., who works in the Austria Tabac offices and reports to Espin.

Throughout the calls it was clear that Hughes was quite disturbed by the approach used by Espin and the threatening language and comments he made about how this information was collected and then passed along. Hughes expressed concern about the possible treatment of the source by Espin in Geneva; I agreed with him that this was not the best approach to obtain further information on this case.

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From: Mulvey, Mark
Sent: Tuesday, March 09, 2010 5:12 PM
To: Reynolds, David A
Subject: FW: Names of JTI Employees Recovered from Persons Involved in Smuggling
Importance: High
Sensitivity: Confidential

Dave – thanks for the information; we will handle from here – thanks, Mark

From: Reynolds, David A
Sent: Tuesday, March 09, 2010 2:13 PM
To: Proctor, Colin
Cc: Perreard, Jean-Luc; Payne, Steve; Monteith, Ian
Subject: Names of JTI Employees Recovered from Persons Involved in Smuggling
Sensitivity: Confidential

Dear Colin,

I hope you are well. We received the following report from one of our service providers in Austria. I understand that some/all of this information has been passed to Richard K and Steve in the past, but since I am not sure of the status of such, I am forwarding the details to you now in case you have not seen it previously.

I propose that we go back to the service provider concerned to address the following points.

1. Which enforcement agency provided this information (I think it's the BKA, but need to confirm)?
2. Why did the agency share this with SINGER; did they ask for some sort of assistance identifying these persons?
3. When was this information first passed to SINGER and then from S to JTI?
4. Did the names come from one or more persons involved in cigarette smuggling? Can we get the names and details of the persons who provided the names, or at least a description of the type of person concerned – were/are they retail sellers, shippers, distributors, factory owners, big-time smugglers, etc; are they all Austrians or other nationalities; are they in jail or been released and now back in business?
5. Were the names provided verbally by these persons or where they recovered from notebooks or address books?
6. Does the LEA know the nature of the relationship between the JTI employees with each of the persons from whom they obtained the names?
7. Are one or more of the JTI employees the subject of any ongoing investigations?

Obviously, there may well be any number of innocent explanations why these persons of interest to the LEA had the names of JTI employees, but I think we need to follow up to determine the nature of these ties before deciding next steps, if any.

All the best - Dave

3/10/2010

Will address these points this week and report back.

Regards

Iain

Iain Hughes Brand Integrity Europe/Africa/LA - Manager Gallaher Limited A member of the JTI Group
Email: iain.hughes@jti.com Office: +44 (0) 1270 504673 Mobile: +44 (0) 7711 032295 Fax: +44 (0) 1270 504653
www.jti.com

From: Reynolds, David A
To: Hughes, Iain
Cc: BI Operations
Sent: Tue Mar 09 06:04:45 2010
Subject: RE: European Smugglers Contact List

Iain – thanks much for this. Can you go back to SINGER and address the following points?

8. Which enforcement agency provided this information?
9. Why did the agency share this with SINGER; did they ask for some sort of assistance identifying these persons?
10. When was this information first passed to SINGER?
11. Did the names come from one or more persons involved in cigarette smuggling? Can we get the names and details of the persons who provided the names, or at least a description of the type of person concerned – were/are they retail sellers, shippers, distributors, factory owners, big-time smugglers, etc; are they all Austrians or other nationalities; are they in jail or been released and now back in business?
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Sensitivity: Confidential

Memorandum for the Record

The evening of 9 March 2010, I received two telephone calls from Iain Hughes, the first of which at least also included Steve Payne, during which Hughes and then Payne said that they had been called and then "ordered" by Nigel Espin, Director of Corporate Security, that Hughes and his investigations service provider who provided the below information report to Geneva for a de-briefing. I told both Payne and Hughes that I had received no calls from Espin and that no one had asked me whether either of them should respond in such a manner. I also explained that I had sent the email with the information from the service provider to Colin Proctor, who runs internal investigations, not/not to Espin, and that I did not understand why Espin was now involved in this case. I told Payne and Hughes that until Espin called me and explained what was going on that they should demure from following his orders. During a subsequent call from Hughes, he explained that Espin had now told him that his (Hughes) presence in Geneva was not required, that he (Espin) had identified the service provider (Hughes claimed that neither he nor Payne gave Espin the name of this person), and that Espin had ordered this service provider to report to Geneva in order to be debriefed. According to Hughes, Espin that complained about the nature of the email that I sent, that it was not done in the correct manner, and that he had previously been accused of smuggling. I explained to Hughes that he should not worry since I sent the email and that it went – according to company policy – to the head of the internal investigations unit and the Chief Compliance Officer. I also stated that I did not understand why Espin was now involved in this case, how he identified the name of the source, and why he felt the need to "debrief" this person in Geneva vice waiting for the additional information I outlined below would be acquired. I also noted that the only person other than myself, Hughes, and Payne involved in this case who knows the name of the source is Richard K., who works in the Austria Tabac offices and reports to Espin.

Throughout the calls it was clear that Hughes was quite disturbed by the approach used by Espin and the threatening language and comments he made about how this information was collected and then passed along. Hughes expressed concern about the possible treatment of the source by Espin in Geneva; I agreed with him that this was not the best approach to obtain further information on this case.

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3/10/2010

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From: Mulvey, Mark
Sent: Tuesday, March 09, 2010 5:12 PM
To: Reynolds, David A
Subject: FW: Names of JTI Employees Recovered from Persons Involved in Smuggling
Importance: High
Sensitivity: Confidential

Dave – thanks for the information; we will handle from here – thanks, Mark

From: Reynolds, David A
Sent: Tuesday, March 09, 2010 2:13 PM
To: Proctor, Colin
Cc: Perreard, Jean-Luc; Payne, Steve; Monteith, Ian
Subject: Names of JTI Employees Recovered from Persons Involved in Smuggling
Sensitivity: Confidential

Dear Colin,

I hope you are well. We received the following report from one of our service providers in Austria. I understand that some/all of this information has been passed to Richard K and Steve in the past, but since I am not sure of the status of such, I am forwarding the details to you now in case you have not seen it previously.

I propose that we go back to the service provider concerned to address the following points.

1. Which enforcement agency provided this information (I think it's the BKA, but need to confirm)?
2. Why did the agency share this with SINGER; did they ask for some sort of assistance identifying these persons?
3. When was this information first passed to SINGER and then from S to JTI?
4. Did the names come from one or more persons involved in cigarette smuggling? Can we get the names and details of the persons who provided the names, or at least a description of the type of person concerned – were/are they retail sellers, shippers, distributors, factory owners, big-time smugglers, etc; are they all Austrians or other nationalities; are they in jail or been released and now back in business?
5. Were the names provided verbally by these persons or where they recovered from notebooks or address books?
6. Does the LEA know the nature of the relationship between the JTI employees with each of the persons from whom they obtained the names?
7. Are one or more of the JTI employees the subject of any ongoing investigations?

Obviously, there may well be any number of innocent explanations why these persons of interest to the LEA had the names of JTI employees, but I think we need to follow up to determine the nature of these ties before deciding next steps, if any.

All the best - Dave

3/10/2010

Will address these points this week and report back.

Regards

Iain

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www.jti.com

From: Reynolds, David A
To: Hughes, Iain
Cc: BI Operations
Sent: Tue Mar 09 06:04:45 2010
Subject: RE: European Smugglers Contact List

Iain – thanks much for this. Can you go back to SINGER and address the following points?

8. Which enforcement agency provided this information?
9. Why did the agency share this with SINGER; did they ask for some sort of assistance identifying these persons?
10. When was this information first passed to SINGER?
11. Did the names come from one or more persons involved in cigarette smuggling? Can we get the names and details of the persons who provided the names, or at least a description of the the type of person concerned – were/are they retail sellers, shippers, distributors, factory owners, big-time smugglers, etc; are they all Austrians or other nationalities; are they in jail or been released and now back in business?
12. Were the names provided verbally by these persons or where they recovered from notebooks or address books?
13. Does the LEA know the nature of the relationship between the JTI employees with each of the persons from whom they obtained the names?
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3/10/2010

Reynolds, David A

From: Reynolds, David A
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Subject: Names of JTI Employees Recovered from Persons Involved in Smuggling
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All the best - Dave

Intelligence Report

URN: HCRR00003497

Subject: European Smugglers Contact List

Source: SINGER

Unit: BI Europe

Summary:

Below is a list of the contact details for JTI employees (past and present). They have been obtained by a European LEA from individuals believed to be involved in tobacco smuggling activities. More detailed information has been requested. The full list of contacts is in Mmx.

3/9/2010