

# KATZ BANKS KUMIN

## SEC Imposes \$19M FCPA Sanction

September 29, 2015

On September 28, 2015, Hitachi Ltd., a Tokyo-based conglomerate, paid a [\\$19 million sanction](#) imposed on the company by the U.S. Securities and Exchange Commission (“SEC”) for its violation of federal securities laws under the [Foreign Corrupt Practices Act](#). The SEC alleges that the company unlawfully colluded with the South African government to secure \$2 billion in power plant contracts by cooperating with Chancellor House Holdings (Pty) Ltd., a front company for the African National Congress (“ANC”), South Africa’s ruling party. Hitachi apparently knew of the true nature of this company and encouraged it to use political influence to secure government contracts nonetheless. Allegedly, Hitachi then inaccurately recorded dealings with the company in order to cover up the illegal activity. According to the SEC, Hitachi sold Chancellor House a 25 percent stake in a South African subsidiary, which allowed the ANC to engage in a profit-sharing scheme with any contracts secured by Hitachi. Subsequently, Hitachi paid ANC’s front company \$5 million in “dividends” and an additional \$1 million in “success fees” improperly recorded as consulting fees and other legitimate revenue sources, both of which the company derived from the two power plant construction contracts it obtained. By misreporting the pay-outs, Hitachi violated the Securities Exchange Act of 1934 provisions associated with book- and record-keeping, as well as internal accounting control clauses. Though Hitachi neither admitted to nor denied the SEC’s allegations, it agreed to pay the monetary penalty which is currently awaiting court approval. This sanction reveals the SEC’s continued commitment to prosecuting Foreign Corrupt Practices Act violations.