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April 2011

# The U.S. DOJ Forms Oil and Gas Price Fraud Working Group to Focus on Energy Markets

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Spurred by increasing public frustration over rising gasoline prices, on Thursday, April 21, 2011, the U.S. Department of Justice ("DOJ") announced the creation of an "Oil and Gas Price Fraud Working Group."[1] The Oil and Gas Fraud Working Group (the "Working Group") has been tasked with ensuring that American consumers are not victims of price gouging at the pump, either through price manipulation or fraud in the commodities market. In his memorandum announcing the formation of the Working Group, Attorney General Eric Holder declared that "where consumers are harmed by unlawful conduct that has the effect of increasing gas prices, state and federal authorities should take swift action."[2]

Specifically, the Working Group will focus on any manipulation of oil and gas prices, collusion, fraud, or other violations of state and federal laws. The Working Group will be comprised of a cross-section of enforcement officials, including representatives from the DOJ, the National Association of Attorneys General, the Commodity Futures Trading Commission, the Federal Trade Commission, the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, as well as the Departments of Agriculture and Energy.

In addition, the Working Group is part of the DOJ's Financial Fraud Task Force, and emphasizes the Obama Administration's commitment to enforcement. The Financial Fraud Task Force was established to "wage an aggressive, coordinated, and proactive effort to investigate and prosecute financial crimes and other laws prohibiting financial fraud."[3] Therefore, along with assessing enforcement issues arising directly from the prices that consumers pay at the pump, the Working Group will attempt to evaluate "developments in commodities markets including an examination of investor practices, supply and demand factors, and the role of speculators and index traders in oil futures markets."[4]

This is not the first time that the Administration has focused on oil and gas fraud enforcement. For example, on August 31, 2010, in the Eastern District of Texas, Joseph Blimline, a majority owner of Provident Royalties, an investment company, pleaded guilty for his role in one of North Texas' largest oil and gas investment Ponzi schemes, which defrauded nearly 8,000 investors of more than $485 million.[5] The criminal case against Blimline was brought by the U.S. Attorney for the Eastern District of Texas, after an investigation by the FBI and the SEC.[6] Similarly, on September 1, 2010, the SEC filed a suit against Jason A. Halek and two companies under his control, alleging that Halek raised approximately $22 million from at least 300 investors nationwide by making materially false and misleading statements concerning the risks related to oil and gas projects.[7]

The formation of the Working Group almost certainly foreshadows an increase in investigations and prosecutions, both of companies and individuals in the energy sector. As a general matter, once the DOJ or the SEC conduct an investigation that yields civil penalties and/or a criminal prosecution in a particular industry, that investigation almost inevitably spreads to other companies and individuals in the same industry. In fact, experts in the field, including Michael Greenberger, a University of Maryland law professor and former senior U.S. Commodity Futures Trading Commission official, anticipate that the DOJ's formation of the Working Group "is going to send a very strong signal to speculators and others who are committing malpractices in these markets, that there is a cop on the beat."[8]

Given that the DOJ has expanded its inquiry into energy markets (through the formation of the Working Group), oil and gas companies (and individuals working in these areas) should be aware of: (i) the importance of conducting internal inquiries; (ii) developing practical steps and guidance for performing an internal inquiry; (iii) assessing compliance strategies; and (iv) the creation and implementation of a response plan to effectively and efficiently respond to the initiation of an investigation by the federal government, including how to interface with government authorities. Put simply, in most cases, staying "in front" of an investigation often will yield the most positive results for companies (or individuals) facing federal scrutiny. In an area of enhanced government oversight, early planning and preparation may be the difference between an investigation and potential indictment.

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[1] Department of Justice, *Attorney General Holder Announces Formation of Oil and Gas Price Fraud Working Group to Focus on Energy Markets* (Apr. 21, 2011), http://www.justice.gov/opa/pr/2011/April/11-ag-500.html.

[2] Office of the Attorney General, *Memorandum to the Financial Fraud Enforcement Task Force*, (Apr. 21, 2011), http://www.justice.gov/ag/AG_Memo_to_FFETF-Gas_Prices.pdf.

[3] *See supra* note 1.

[4] *See supra* note 2.

[5] FBI National Press Releases, *Financial Fraud Enforcement Task Force Announces Results of Largest-Ever Nationwide Operation Targeting Investment Fraud* (Dec. 6, 2010), http://www.fbi.gov/news/pressrel/press-releases/brokentrust_120610.

[6] *Id.*

[7] *Id.*

[8] Jeff Mason, *Obama administration eyes energy markets for fraud*, Reuters (Apr. 21, 2011), http://www.reuters.com/article/2011/04/21/us-usa-energy-fraud-idUSTRE73K5FS20110421.