Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	File No.: EB-IHD-16-00021037
Siemens Corporation, *et al*.	)	
	)	Acct. No.: 2016320800010
	)	
	)	FRN: 0024729832
	)	

ORDER

Adopted: September 20, 2016 **Released: September 22, 2016**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) has entered into a Consent Decree to resolve its investigation into whether Siemens Corporation (Siemens) and Siemens Medical Solutions USA, Inc. (Siemens Medical), on behalf of their subsidiary companies (Companies), failed to disclose two corporate felony convictions on numerous FCC wireless license applications in violation of 47 C.F.R § 1.17. This regulation ensures that wireless license applicants do not provide the Commission with material factual information that is incorrect or misleading, or omit material information.

2. In 2008, Siemens AG, the ultimate corporate parent of Siemens and Siemens Medical, pleaded guilty to criminal charges of violating the accounting provisions of the Foreign Corrupt Practices Act (FCPA) and certain of Siemens AG's subsidiaries pleaded guilty to criminal charges for conspiracy to violate certain provisions of the FCPA through bribery of foreign government employees, including communications regulatory officials. That case settled in 2008 with Siemens AG paying $450 million in criminal fines to the United States Department of Justice and a $350 million disgorgement to the United States Securities and Exchange Commission. In addition, in 2007, Siemens Medical pleaded guilty to a single federal charge of obstruction of justice in connection with a 2000-2001 civil matter. That case settled in 2007 with Siemens Medical paying $2.5 million dollars in fines and restitution.

3. The Commission must be able to rely on the completeness and accuracy of its regulatees' submissions. Even large organizations whose primary lines of business are not subject to the Commission's jurisdiction must file complete and accurate wireless license applications. The Companies had a statutory and regulatory obligation to disclose the felony convictions on their wireless license applications when they were filed with the Commission. The Companies' failure to disclose these convictions is particularly troubling because the underlying acts included misdeeds involving foreign telecommunications regulators, but we believe that a Consent Decree is appropriate based on the totality of the circumstances, including Siemens's and Siemens Medical's corrections of the Subsidiary Companies' wireless application submissions on their own initiative, and Siemens's and Siemens Medical's full cooperation with the Bureau's investigation after those corrections.

4. To settle this matter, Siemens and Siemens Medical admit that their Companies filed several incorrect FCC wireless license applications. Siemens and Siemens Medical also agree to pay a $175,000 civil penalty and to implement a compliance plan to ensure that these violations do not reoccur.

5. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the

referenced investigation into the companies' compliance with Sections 154 and 308 of the Communications Act, as amended (Act),[1] and Section 1.17 of the Commission's rules.[2]

6. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Siemens's, Siemens Medical's, or their Subsidiary Companies' basic qualifications to hold or obtain any Commission license or authorization.[3]

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Act,[4] and the authority delegated by Sections 0.111 and 0.311 of the Commission's rules,[5] the Consent Decree attached to this Order **IS ADOPTED** and its terms are incorporated by reference.

8. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

9. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Ann D. Fairchild, Associate General Counsel and Head of Legal, U.S. Projects CoE, Siemens Corporation, 4400 Alafaya Trail, Q1-425, Orlando, FL 32826; Tony D'Adamio, General Counsel, Siemens Medical Solutions USA, Inc., 40 Liberty Boulevard, Malvern, PA 19355; Elizabeth R. Park, Esq., Latham & Watkins, 555 11th Street, NW, STE 1000, Washington, DC 20004; and Matthew A. Brill, Esq., Latham & Watkins, 555 11th Street, NW, STE 1000, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc
Chief
Enforcement Bureau

[1] 47 U.S.C. §§ 154, 308.

[2] 47 C.F.R. § 1.17.

[3] *See* 47 C.F.R. § 1.93(b).

[4] 47 U.S.C. § 154(i).

[5] 47 C.F.R. §§ 0.111, 0.311.

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Siemens Corporation, *et al*.	)	File No.: EB-IHD-16-00021037
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CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) and Siemens Corporation (Siemens) and Siemens Medical Solutions USA, Inc. (Siemens Medical), each on behalf its subsidiary companies (Subsidiaries), by its authorized representative, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether certain Subsidiaries violated 47 CFR §§ 1.17 and 1.65 in connection with Commission's requirement that entities subject to the Commission's jurisdiction file accurate and true information in their wireless license applications. The wireless licenses issued by the Commission to the Subsidiaries are maintained for business radios used by the Subsidiaries at various Siemens and Siemens Medical manufacturing, construction, and power generation sites in the United States.[1]

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended.[2]

(b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

(c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.

(d) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

(e) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which each of Siemens and Siemens Medical is subject by virtue of its business activities, including, but not limited to the wireless license application Rules.

(f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.

(g) "Covered Employees" means all employees of Siemens and Siemens Medical who perform or directly supervise the performance of duties that relate to Siemens' or

[1] Response to Letter of Inquiry from Matthew A. Brill, Counsel to Siemens Energy, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 6 (April 14, 2016) (on file in EB-IHD-16-00012037) (LOI Response).

[2] 47 U.S.C. § 151 *et seq.*

Siemens Medical's respective responsibilities under the Communications Laws, including the wireless license application Rules.

(h) "Effective Date" means the date by which each of the Bureau and Siemens and Siemens Medical have signed the Consent Decree.

(i) "Investigation" means the investigation commenced by the Bureau in File No. EB-IHD-16-00021037 regarding whether Siemens, Siemens Medical and/or their Subsidiaries violated the wireless license application Rules.

(j) "Operating Procedures" means the standard internal operating procedures and compliance policies established by Siemens and Siemens Medical to implement the Compliance Plan.

(k) "Parties" means Siemens and Siemens Medical and the Bureau, each of which is a "Party."

(l) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

(m) "Siemens" means Siemens Corporation and its corporate subsidiaries, predecessors-in-interest, and successors-in-interest.

(n) "Siemens Medical" means Siemens Medical Solutions USA, Inc. and its corporate subsidiaries, predecessors-in-interest, and successors-in-interest.

(o) "Subsidiary" means each entity that filed a Wireless License Application between March 11, 2015 and March 10, 2016, for which Siemens or Siemens Medical is the parent company.

(p) "Wireless License Application" means *FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau*, FCC Form 601 and *FCC Application for Assignments of Authorization or Transfer of Control: Wireless Telecommunications Bureau and Public Safety Homeland Security Bureau*, FCC Form 603.

(q) "Wireless License Application Rules" means provisions of the Act, the Rules, and Commission orders related to Wireless License Applications.

II. BACKGROUND

3. The Commission requires all applicants to file accurate and true information in their Wireless License Applications, which the Commission uses to evaluate whether it is appropriate for the Commission to grant such FCC applications based on the applicants' basic and other qualifications and technical capabilities. Section 1.17(a)(2) of the Rules states no one subject to Commission jurisdiction shall provide in writing any "material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading."[3] In FCC Form 601,[4] applicants are required to answer Question 50, which asks whether "the Applicant or any party to this application, or any party directly or indirectly controlling the Applicant [has] ever been convicted of a felony by any state or federal court?" Similarly, Question 101 in FCC Form 603[5] asks whether "the Assignee/Transferee or any party to this application, or any party directly or

[3] 47 C.F.R. § 1.17(a)(2).

[4] *FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau*, FCC Form 601 (2016).

[5] *FCC Application for Assignments of Authorization or Transfer of Control: Wireless Telecommunications Bureau and Public Safety Homeland Security Bureau*, FCC Form 603 (2016).

indirectly controlling the Assignee/Transferee [has] ever been convicted of a felony by any state or federal court?"

4. Siemens is a Delaware corporation. On December 15, 2008, Siemens AG, the ultimate parent corporation to Siemens, pleaded guilty to felony criminal charges of violating the accounting provisions of the Foreign Corrupt Practices Act (FCPA). As Siemens AG is the ultimate controlling parent of each Subsidiary, Siemens AG's violation of the FCPA should have been disclosed by a Subsidiary in each respective Wireless License Application.

5. Siemens Medical is a Delaware corporation. On February 8, 2007, Siemens Medical pleaded guilty to a single federal felony charge of obstruction of justice in connection with a 2001 civil litigation. Siemens Medical is a wholly-owned subsidiary of Siemens Healthcare GmbH, which in turn is a wholly-owned subsidiary of Siemens AG. Siemens Medical is also the direct parent of Siemens Healthcare Diagnostics Inc. (SHDI). SHDI is a Subsidiary, and both Siemens AG's and Siemens Medical's felony convictions should have been disclosed by SHDI in each of SHDI's Wireless License Applications.

6. The Subsidiaries filed numerous Wireless License Applications in which they failed to disclose Siemens AG's December 15, 2008 FCPA violation until the first correct Wireless License Application was filed with the Commission on July 8, 2015. And in the particular case of SHDI, it also failed to disclose Siemens Medical's February 8, 2007 guilty plea to the charge of obstruction of justice.

III. TERMS OF AGREEMENT

7. **Adopting Order**. The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

8. **Jurisdiction**. Siemens and Siemens Medical each agree that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

10. **Termination of Investigation**. In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Siemens and Siemens Medical, on behalf each Subsidiary, each agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Siemens or Siemens Medical concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of basic qualifications of Siemens or Siemens Medical to be a Commission licensee or hold Commission licenses or authorizations.[6]

11. **Admission of Liability**. Siemens and Siemens Medical each admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that its Subsidiaries' failures to disclose the applicable felonies of Siemens AG or Siemens Medical in numerous Wireless License Applications filed between 2015 and 2016 violated Section 1.17 of the Commission's Rules.

[6] *See* 47 CFR 1.93(b).

12. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Siemens and Siemens Medical each shall provide the contact information for a senior corporate manager with the requisite corporate and organizational authority who serves as a Compliance Officer and who discharges the duties set forth below. The person designated as a Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Siemens or Siemens Medical, as the case may be, complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Wireless License Application Rules prior to assuming his/her duties.

Compliance Plan. For purposes of settling the matters set forth herein, Siemens and Siemens Medical each agree that they shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to Wireless License Applications, Siemens and Siemens Medical each will implement, at a minimum, the following procedures:

(a) **Operating Procedures**. Within sixty (60) calendar days after the Effective Date, Siemens and Siemens Medical shall establish Operating Procedures that all Covered Employees must follow to help ensure Siemens's compliance with Section 1.17 of the Rules. Siemens's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Siemens accurately files Wireless License Applications in the future. Siemens shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with Section 1.17 of the Rules.

(b) **Compliance Manual**. Within sixty (60) calendar days after the Effective Date, Siemens and Siemens Medical shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the requirements of Section 1.17 of the Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure compliance respectively by Siemens and Siemens Medical with Section 1.17 of the Rules. Siemens and Siemens Medical shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Siemens and Siemens Medical shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. Siemens and Siemens Medical shall establish and implement a Compliance Training Program on compliance with the Section 1.17 of the Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Siemens's and Siemens Medical's obligation to report any noncompliance with Section 1.17 of the Commission's Rules under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within sixty (60) calendar days after the date such person becomes a Covered Employee. Siemens shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

13. **Reporting Noncompliance**. Siemens and Siemens Medical shall report any noncompliance with Section 1.17 of the Rules occurring after the Effective Date and with the terms and conditions of this Consent Decree within thirty (30) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that

Siemens or Siemens Medical, as the case may be, has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Siemens or Siemens Medical, as the case may be, has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, and Greg Haledjian at Gregory.Haledjian@fcc.gov.

14. **Compliance Reports**. Siemens and Siemens Medical shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

(a) Each Compliance Report shall include a detailed description of efforts made by Siemens and Siemens Medical during the relevant period to comply with the terms and conditions of this Consent Decree and Section 1.17 of the Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Siemens or Siemens Medical, as the case may be, stating that the Compliance Officer has personal knowledge that Siemens or Siemens Medical: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 13 of this Consent Decree.

(b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.[7]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Siemens or Siemens Medical, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Siemens or Siemens Medical has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Siemens or Siemens Medical has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

(d) All Compliance Reports shall be submitted Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, and Greg Haledjian at Gregory.Haledjian@fcc.gov.

15. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 12 through 14 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

16. **Civil Penalty**. Siemens and Siemens Medical will pay a civil penalty, for which they are jointly and severally liable, to the United States Treasury in the amount of $175,000 within thirty (30) calendar days of the Effective Date. Siemens and Siemens Medical shall send electronic notification of payment to Jeffrey J. Gee at Jeffrey.Gee@fcc.gov, and Greg Haledjian at Gregory.Haledjian@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced above. Regardless of the form

[7] 47 CFR § 1.16.

of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[8] When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

17. **Waivers**. As of the Effective Date, Siemens and Siemens Medical each waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Siemens and Siemens Medical shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Siemens, Siemens Medical, nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Siemens and Siemens Medical shall waive any statutory right to a trial *de novo*. Siemens and Siemens Medical each hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[9] relating to the matters addressed in this Consent Decree.

18. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

19. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

20. **Subsequent Rule or Order**. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Siemens and Siemens Medical do not expressly consent) that provision will be superseded by such Rule or Order.

[8] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

[9] *See* 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

21. **Successors and Assigns**. Siemens and Siemens Medical each agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

22. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

23. **Modifications**. This Consent Decree cannot be modified without the advance written consent of both Parties.

24. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

25. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

26. **Counterparts**. This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

_____ _____

Travis LeBlanc
Chief
Enforcement Bureau

Date

_____ _____

Eric Spiegel
President and Chief Executive Officer
Siemens Corporation

Date

_____ _____

Klaus Stegemann
Executive Vice President and Chief Financial Officer
Siemens Corporation

Date

_____ _____

David Pacitti
President and Chief Executive Officer
Siemens Medical Solutions USA, Inc.

Date

_____ _____

Ann Custin
Executive Vice President and Treasurer
Siemens Medical Solutions USA, Inc.

Date