

## **ABB Ltd. (Matter #76)**

**Case ID:**

ST-9

**Case Cluster :**

ABB Ltd. (Matter #76)

**Jurisdiction of Settlement:**

United States

**Jurisdiction of Settlement / Enforcement Agency:**

Securities and Exchange Commission

**Jurisdiction of Foreign Public Official(s) :**

Nigeria, Kazakhstan, Angola

**Year of Settlement:**

2004

**Month/Day of Settlement (or Notes):**

07/06

**Other Jurisdictions of Settlement:**

Unknown

**Settlement with Individual or Legal Person?:**

Legal Person

**Type of Settlement:**

Civil

**Legal Form of Settlement:**

Consent to Permanent Injunction

**Monetary Sanctions (Types):**

Disgorgement of Profits, Prejudgment Interest

**Total Monetary Sanctions (US\$):**

\$5,915,405.64

**Civil Disgorgement of Profits (US\$) :**

\$5,501,157

**Civil Prejudgment Interest (US\$) :**

\$414,248.64

**Civil Fine / Penalty (US\$):**

\$0

**Monetary Sanctions Returned / Ordered Returned (US\$):**

\$0

**UNCAC Articles(s) Implicated:**

Art.16

Art.26

**OECD Anti-Bribery Convention Articles Implicated:**

Art. 1, Art. 2

**Offenses - Alleged:**

Bribery of foreign officials, Internal controls violations, Books and records violations

**Offenses - Settled:**

No admission or denial of alleged offenses

**Public Procurement Contract / SOE Involved?:**

Yes

**Summary:**

According to the US Securities and Exchange Commission Litigation Release, "On July 6, 2004, the Securities and Exchange Commission filed a settled enforcement action in the United States District Court for the District of Columbia charging ABB Ltd, a global provider of power and automation technologies headquartered in Zurich, Switzerland, with violating the anti-bribery, books-and-records, and internal-accounting-controls provisions of the Foreign Corrupt Practices Act (FCPA). Simultaneously with the filing of the complaint, and without admitting or denying its allegations, ABB consented to the entry of a final judgment enjoining it from future FCPA violations, and requiring it (i) to pay \$5.9 million in disgorgement and prejudgment interest, (ii) to pay a \$10.5 million penalty, which would be deemed satisfied by two of its affiliates' payments of criminal fines totaling the same amount in parallel criminal proceedings brought by the Department of Justice; and (iii) to retain an independent consultant to review the company's FCPA compliance policies and procedures. In its complaint, the Commission charged that, from 1998 through early 2003, ABB's U.S. and foreign-based subsidiaries doing business in Nigeria, Angola and Kazakhstan, offered and made illicit payments totaling over \$1.1 million to government officials in these countries. According to the complaint, all of the payments were made to influence acts and decisions by the foreign officials receiving the payments, in order to assist ABB's subsidiaries in obtaining and retaining business." (Source: US Securities and Exchange Commission, Litigation Release No. 18775 / July 6, 2004, "SEC SUES ABB LTD IN FOREIGN BRIBERY CASE / ABB SETTLES FEDERAL COURT ACTION AND AGREES TO DISGORGE \$5.9 MILLION IN ILLICIT PROFITS / TWO ABB AFFILIATES ALSO PLEAD GUILTY AND AGREE TO PAY \$10.5 MILLION IN FINES IN CRIMINAL CASE BROUGHT BY THE DEPARTMENT OF JUSTICE," Securities and Exchange Commission v. ABB Ltd, Case No. 1:04-cv-1141 [RBW] (U.S.D.C., D.D.C.)

**Sources :**

US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, ABB Ltd. Case Summary (#76) at 114-116, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. U.S. Securities and Exchange Commission, Litigation Release No. 18775 / July 6, 2004, "SEC SUES ABB LTD IN FOREIGN BRIBERY CASE / ABB SETTLES FEDERAL COURT ACTION AND AGREES TO DISGORGE \$5.9 MILLION IN ILLICIT PROFITS / TWO ABB AFFILIATES ALSO PLEAD GUILTY AND AGREE TO PAY \$10.5 MILLION IN FINES IN CRIMINAL CASE BROUGHT BY THE DEPARTMENT OF JUSTICE," Securities and Exchange Commission v. ABB Ltd, Case No. 1:04-cv-1141 [RBW] (U.S.D.C., D.D.C.), accessed at <http://www.sec.gov/litigation/litreleases/lr18775.htm>; Final Judgment accessed at <http://fcpa.shearman.com/files/83d/83df1e6aaa984cd891ff6c8fadd5b441.pdf?i=d05688136f3cad212310>