

American Rice, Inc. / Lawrence Theriot

Case ID:

ST-45

Case Cluster :

American Rice, Inc.

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Haiti

Year of Settlement:

2004

Month/Day of Settlement (or Notes):

12/30

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Permanent Injunction

Monetary Sanctions (Types):

Civil Penalty

Total Monetary Sanctions (US\$):

\$11,000.00

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$11,000

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

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.27

OECD Anti-Bribery Convention Articles Implicated:

Art. 1

Offenses - Alleged:

Aiding and abetting co-defendants' bribery of foreign officials

Offenses - Settled:

No admission or denial of allegations

Public Procurement Contract / SOE Involved?:

No (Customs)

Summary:

According to the US Securities and Exchange Commission's Litigation Release, on December 30, 2004, the US District Court for the Southern District of Texas entered a Final Judgment enjoining Mr. Theriot from future FCPA violations and ordered him to pay a \$11,000 civil penalty. Mr. Theriot, a consultant to American Rice, Inc. consented to the Final Judgment without admitting or denying the SEC's allegations. The SEC had alleged that Mr. Theriot aided and abetted a bribery scheme in violation of the FCPA, namely that from 1998 to 1999, an American Rice vice president authorized and the company made at least 12 separate bribery payments to Haitian customs officials, totalling approximately \$500,000. In exchange, Haitian customs officials permitted American Rice to illegally avoid approximately \$1.5 million in Haitian import taxes. (Source: US Securities and Exchange Commission, Litigation Release No. 19026 / January 7, 2005, SEC v. Douglas A. Murphy, David G. Kay and Lawrence H. Theriot, Civil Action No. H-02-2908 (S.D. Texas), "Lawrence H. Theriot Consents to Permanent Injunction and Payment of Civil Penalty for Aiding and Abetting Violations of the Foreign Corrupt Practices Act"). According to the June 2011 US Report to the OECD on the Enforcement of the Anti-Bribery Convention, "The civil matter against [co-defendants] Kay and Murphy were suspended until sentencing, and the SEC has not yet moved to reopen the case." The same report noted that Kay and Murphy were convicted on October 6, 2004. (Source: 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, American Rice, Inc. Case, at 126-127.)

Sources :

US Securities and Exchange Commission, Litigation Release No. 19026 / January 7, 2005, SEC v. Douglas A. Murphy, David G. Kay and Lawrence H. Theriot, Civil Action No. H-02-2908 (S.D. Texas), "Lawrence H. Theriot Consents to Permanent Injunction and Payment of Civil Penalty for Aiding and Abetting Violations of the Foreign Corrupt Practices Act," accessed at <http://www.sec.gov/litigation/litreleases/lr19026.htm>; copy of complaint accessed at <http://www.sec.gov/litigation/complaints/comp17651.htm>; 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, American Rice, Inc. at 126-127, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>