

Con-Way, Inc.

Case ID:

ST-128

Case Cluster :

Con-Way, Inc.

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Philippines

Year of Settlement:

2008

Month/Day of Settlement (or Notes):

08/27

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Cease-and-Desist Order

Monetary Sanctions (Types):

Civil Penalty

Total Monetary Sanctions (US\$):

\$300,000.00

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$300,000

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, Art. 8

Offenses - Alleged:

Internal controls violations, Falsification of books and records

Offenses - Settled:

No admission or denial of allegations

Public Procurement Contract / SOE Involved?:

No (Customs)

Summary:

According to US Department of Justice Report to Congress, Appendix C "Summaries of Foreign Corrupt Practices Act Enforcement Actions by the United States, January 1, 1998 - September 30, 2010," Con-Way Inc. at 58-59: Time period of misconduct in Philippines, 2000-2003; SEC complaint alleged that Con-Way's Philippine subsidiary, Emery Transnational, (1) made approximately \$244,000 in improper payments to foreign officials of the Philippines Bureau of Customs and the Philippine Economic Zone Area, that the payments were made to induce these foreign officials to violate customs regulations, settle customs disputes, and reduce or not enforce otherwise legitimate fines; (2) \$173,000 in improper payments to officials at fourteen state-owned airlines that conducted business in the Philippines, to induce airline officials to improperly reserve space for Emery Transnational on airplanes, to falsely under-weigh shipments, and to improperly consolidate multiple shipments into a single shipment, resulting in lower shipping charges. Resulting civil/administrative enforcement actions: SEC v. Con-Way Inc., Case No. 1:08-cv-01478-EGS (D.D.C.), Complaint filed August 27, 2008; In the Matter of Con-Way Inc. (August 27, 2008). According to the US Securities and Exchange Commission Litigation Release, "Without admitting or denying the allegations in the Commission's complaint, Con-way agreed to pay a \$300,000 civil penalty." (Source: US Securities and Exchange Commission, Litigation Release No. 20690 / August 27, 2008, Securities and Exchange Commission v. Con-way Inc., Civil Action No. 1:08-CV-01478 (D.D.C.) (EGS), "SEC Files Settled Enforcement Action Charging Con-way Inc. with Violations of the Foreign Corrupt Practices Act.")

Sources :

US Department of Justice Report to Congress, Appendix C "Summaries of Foreign Corrupt Practices Act Enforcement Actions by the United States, January 1, 1998 - September 30, 2010," Con-Way Inc. at 58-59, accessed at www.justice.gov/criminal/fraud/fcpa/docs/response3-appx-c.pdf; US Securities and Exchange Commission, Litigation Release No. 20690 / August 27, 2008, Securities and Exchange Commission v. Con-way Inc., Civil Action No. 1:08-CV-01478 (D.D.C.) (EGS), "SEC Files Settled Enforcement Action Charging Con-way Inc. with Violations of the Foreign Corrupt Practices Act," accessed at <http://www.sec.gov/litigation/litreleases/2008/lr20690.htm>; US Securities and Exchange Commission v. Con-Way Inc., Case No. 1:08-cv-01478-EGS (D.D.C.), Complaint filed August 27, 2008, accessed at <http://www.sec.gov/litigation/complaints/2008/comp20690.pdf>