

Diageo plc

Case ID:

ST-142

Case Cluster :

Diageo plc

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Thailand, India, South Korea

Year of Settlement:

2011

Month/Day of Settlement (or Notes):

07/27

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):

Disgorgement of Profits, Prejudgment Interest, Civil Penalty

Total Monetary Sanctions (US\$):

\$16,373,820.00

Civil Disgorgement of Profits (US\$) :

\$11,306,081

Civil Prejudgment Interest (US\$) :

\$2,067,739

Civil Fine / Penalty (US\$):

\$3,000,000

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, Tax)

Summary:

According to a US Securities and Exchange Commission Press Release, "According to the SEC's order instituting settled administrative proceedings against Diageo, the company made more than \$1.7 million in illicit payments to hundreds of government officials in India from 2003 to mid-2009. The officials were responsible for purchasing or authorizing the sale of its beverages in India, and increased sales from these payments yielded more than \$11 million in profit for the company. The SEC found that from 2004 to mid-2008, Diageo paid approximately \$12,000 per month -- totaling nearly \$600,000 -- to retain the consulting services of a Thai government and political party official. This official lobbied other high-ranking Thai government officials extensively on Diageo's behalf in connection with pending multi-million dollar tax and customs disputes, contributing to Diageo's receipt of certain favorable decisions by the Thai government. According to the SEC's order, Diageo paid 100 million in Korean currency (more than \$86,000 in U.S. dollars) to a customs official in South Korea as a reward for his role in the government's decision to grant Diageo significant tax rebates. Diageo also improperly paid travel and entertainment expenses for South Korean customs and other government officials involved in these tax negotiations. Separately, Diageo routinely made hundreds of gift payments to South Korean military officials in order to obtain and retain liquor business. [] Without admitting or denying the findings, Diageo agreed to cease and desist from further violations and pay \$11,306,081 in disgorgement, prejudgment interest of \$2,067,739, and a financial penalty of \$3 million." (Source: US Securities and Exchange Commission Press Release, "SEC Charges Liquor Giant Diageo with FCPA Violations," July 27, 2011.)

Sources :

US Securities and Exchange Commission Press Release, "SEC Charges Liquor Giant Diageo with FCPA Violations," July 27, 2011, accessed at <http://www.sec.gov/news/press/2011/2011-158.htm>; In the Matter of Diageo plc, SEC Administrative Proceeding File No. 3-14490, "Order Instituting Cease-and-Desist Proceedings," July 27, 2011, accessed at <http://www.sec.gov/litigation/admin/2011/34-64978.pdf>