

Flowserve Corporation

Case ID:

ST-157

Case Cluster :

Flowserve Corporation

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Iraq (UN Oil-for-Food)

Year of Settlement:

2008

Month/Day of Settlement (or Notes):

02/21

Other Jurisdictions of Settlement:

Netherlands

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, Civil Penalty

Total Monetary Sanctions (US\$):

\$6,574,225.00

Civil Disgorgement of Profits (US\$) :

\$2,720,861

Civil Prejudgment Interest (US\$) :

\$853,364

Civil Fine / Penalty (US\$):

\$3,000,000

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

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.23

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 7, 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?:

Yes

Summary:

According to the US Securities and Exchange Commission Litigation Release, the "Commission today filed Foreign Corrupt Practices Act books and records and internal controls charges against Flowserve Corporation ("Flowserve") in the U.S. District Court for the District of Columbia. Flowserve is a Texas-based manufacturer of pumps, valves, seals, and related automation and services to the power, oil, gas, and chemical industries. The Commission's complaint alleges that from 2001 through 2003, two of Flowserve's subsidiaries entered into a total of twenty contracts in which \$646,488 in kickback payments were made and another \$173,758 were authorized in connection with sales of industrial equipment to Iraqi government entities under the U.N. Oil for Food Program (the "Program"). The kickbacks were characterized as "after-sales service fees" ("ASSFs"), but no bona fide services were performed. The Program was intended to provide humanitarian relief for the Iraqi population, which faced severe hardship under international trade sanctions. The Program allowed the Iraqi government to purchase humanitarian goods through a U.N. escrow account. The kickbacks paid by Flowserve's subsidiaries diverted funds out of the escrow account and into an Iraqi slush fund. The contracts submitted to the U.N. did not disclose that the illicit payments were included in the inflated contract prices. [] Flowserve, without admitting or denying the allegations in the Commission's complaint, consented to the entry of a final judgment permanently enjoining it from future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934, ordering it to disgorge \$2,720,861, in profits, plus \$853,364 in pre-judgment interest, and to pay a civil penalty of \$3,000,000. Flowserve will also pay a \$4,000,000 fine pursuant to a deferred prosecution agreement with the U.S. Department of Justice, Fraud Section. Flowserve B.V. will enter into a criminal disposition with the Dutch Public Prosecutor pursuant to which it will pay a fine." (Source: US Securities and Exchange Commission Litigation Release No. 20461 / February 21, 2008, Securities and Exchange Commission v. Flowserve Corporation, Civil Action No. 08 CV 00294 (D.D.C.) (EGS), "SEC Files Settled Books and Records and Internal Controls Charges Against Flowserve Corporation For Improper Payments to Iraq Under the U.N. Oil for Food Program ? Company Agrees to Pay Over \$6.5 Million in Civil Penalties, Disgorgement of Profits, and Prejudgment Interest.")

Sources :

US Securities and Exchange Commission Litigation Release No. 20461 / February 21, 2008, Securities and Exchange Commission v. Flowserve Corporation, Civil Action No. 08 CV 00294 (D.D.C.) (EGS), "SEC Files Settled Books and Records and Internal Controls Charges Against Flowserve Corporation For Improper Payments to Iraq Under the U.N. Oil for Food Program -- Company Agrees to Pay Over \$6.5 Million in Civil Penalties, Disgorgement of Profits, and Prejudgment Interest," accessed at <http://www.sec.gov/litigation/litreleases/2008/lr20461.htm>; Complaint filed February 21, 2008, accessed at <http://www.sec.gov/litigation/complaints/2008/comp20461.pdf>