

Immucor, Inc. / Giaocchino De Chirico

Case ID:

ST-204

Case Cluster :

Immucor, Inc.

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Italy

Year of Settlement:

2007

Month/Day of Settlement (or Notes):

09/28

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Civil

Legal Form of Settlement:

Consent to Cease-and-Desist Order

Monetary Sanctions (Types):

Civil Penalty

Total Monetary Sanctions (US\$):

\$30,000.00

Civil Disgorgement of Profits (US\$) :

\$0

Civil Prejudgment Interest (US\$) :

\$0

Civil Fine / Penalty (US\$):

\$30,000

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

\$0

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 8

Offenses - Alleged:

False accounting violations, Aiding and abetting internal controls violations, Aiding and abetting falsification of books and records

Offenses - Settled:

No admission or denial of alleged offenses

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Securities and Exchange Commission's Litigation Release in SEC v. Gioacchino De Chirico, on September 28, 2007, the Securities and Exchange Commission "announced the filing of a settled civil action against Gioacchino De Chirico, Chief Executive Officer of Immucor, Inc., for violating Section 13(b)(5) of the Exchange Act and Rule 13b2-1, and for aiding and abetting violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act. The Commission's complaint, filed in the United States District Court of the Northern District of Georgia, alleges that in April 2004, Immucor paid €13,500 (Euros) [US\$16,119] to the director of a public hospital in Milan, Italy as a quid pro quo for the hospital director favoring Immucor in selecting contracts for supplies and equipment. The complaint further alleges that De Chirico approved an invoice that falsely described the €13,500 payment as a consulting fee for services in connection with opportunities in Switzerland -- work De Chirico knew the hospital director had never performed. With the filing of the Commission's action, De Chirico has agreed, without admitting or denying the allegations in the Commission's complaint, to the entry of a final judgment ordering him to pay a civil penalty of \$30,000. Separately, Immucor and De Chirico consented to a Commission cease-and-desist order related to the same events, without admitting or denying the Commission's findings. (Exchange Act Release No. 56558)." (Source: SEC Litigation Release No. 20316, SEC v. Gioacchino De Chirico, Case No. 1:07-cv-2367 (N.D. Ga., September 28, 2007) The SEC had alleged that the payment request had been submitted by Immucor's local sales agent who asked that it be paid to a Swiss bank account for the benefit of the hospital director (para 5); in accordance with the sales agent's earlier agreement with the hospital director's request to assist him in avoiding Italian taxes, De Chirico authorized that the EUR 13,500 payment be made through Immucor's German subsidiary, Immucor Medizinische Diagnostik GmbH. (para 6) (Source: In the Matter of Immucor, Inc. and Gioacchino de Chirico, Order Instituting Cease and Desist Proceedings, Administrative Proceeding File No. 3-12846.)

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, Immucor, Inc. Case Summary at 94-95, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. SEC v. Gioacchino De Chirico, Case No. 1:07-cv-2367 (N.D. GA), Complaint filed September 28, 2007, accessed at <http://www.sec.gov/litigation/complaints/2007/comp20316.pdf>; US Securities and Exchange Commission Litigation Release No. 20316, SEC v. De Chirico, <http://www.sec.gov/litigation/litreleases/2007/lr20316.htm>; SEC Release No. 56558, In Re: Immucor, Inc. and Gioacchino De Chirico, Cease and Desist Order (September 27, 2007), accessed at <http://www.sec.gov/litigation/admin/2007/34-56558.pdf>.