

International Business Machines (IBM) / 2001 Settlement (Argentina)

Case ID:

ST-215

Case Cluster :

International Business Machines (Argentina)

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Argentina

Year of Settlement:

2001

Month/Day of Settlement (or Notes):

01/09

Other Jurisdictions of Settlement:

Argentina

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.23

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 7, Art. 8

Offenses - Alleged:

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's Litigation Release, "Without admitting or denying the allegations in the complaint, IBM consented to the entry of a judgment ordering IBM to pay a \$300,000 penalty. The Order finds that IBM violated Section 13(b)(2)(A) of the Exchange Act in connection with a \$250 million contract to integrate and modernize the computer system of a commercial bank owned by the Argentine government. According to the Order, certain former senior management of IBM-Argentina, S.A. ("IBM-Argentina"), a wholly-owned subsidiary of IBM, caused IBM-Argentina to enter into a subcontract with Capacitacion Y Computacion Rural, S.A. ("CCR"), and money paid to CCR by IBM-Argentina in connection with the subcontract was apparently subsequently paid by CCR to certain bank officials. Specifically, the Order finds that, during 1994 and 1995, IBM-Argentina paid CCR approximately \$22 million under the subcontract, of which at least \$4.5 million was transferred to several bank directors by CCR." (Source: Securities and Exchange Commission, Litigation Release No. 16839 / December 21, 2000, SEC v. International Business Machines Corporation, Case No. 1:00-cv-03040-JR (D.D.C.), "SEC Settles Foreign Corrupt Practices Act Case against IBM.")

Sources :

Securities and Exchange Commission v. International Business Machines Corporation, Case No. 00-cv-3040-JR (D.D.C. January 9 2001), Final Judgment. Background details in SEC Administrative Proceeding File No. 3-10397 and Litigation Release No. 16839 / December 21, 2000, "SEC Settles Foreign Corrupt Practices Act Case against IBM," accessed at <http://www.sec.gov/litigation/litreleases/lr16839.htm>; Complaint filed December 21, 2000, accessed at

<http://fcpa.shearman.com/files/d0c/d0c38e4dd02cb168e08b10bfeb943905.pdf?i=213d33ba5837e54f76> and Final Judgment filed January 9, 2001, at

<http://fcpa.shearman.com/files/f6c/f6c4f8147e24d085fe53df61f218f475.pdf?i=a6ed58903e4eafab05288>