

Johnson & Johnson

Case ID:

ST-241

Case Cluster :

Johnson & Johnson

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Securities and Exchange Commission

Jurisdiction of Foreign Public Official(s) :

Greece, Poland, Romania, Iraq (UN Oil-for-Food)

Year of Settlement:

2011

Month/Day of Settlement (or Notes):

04/08

Other Jurisdictions of Settlement:

United Kingdom

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

Total Monetary Sanctions (US\$):

\$48,666,316.00

Civil Disgorgement of Profits (US\$) :

\$38,227,826

Civil Prejudgment Interest (US\$) :

\$10,438,490

Civil Fine / Penalty (US\$):

\$0

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:

Bribery of foreign officials, Falsification of books and records, Internal controls violations

Offenses - Settled:

No admission or denial of allegations

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the Statement of Facts agreed to be Johnson & Johnson as part of its Deferred Prosecution Agreement with the Department of Justice, J&J engaged in misconduct with respect to the UN Oil-for-Food program and in Greece, Poland and Romania. In Greece, DePuy Inc. (Delaware-registered) and dePuy International (wholly owned subsidiary) from 2001 to 2003, Greek Agent A was paid approximately EUR 7,987,540, and from 2003 through 2005, Greek Agent B was paid approximately EUR 7,303,754; significant portion of these payments were used to pay cash incentives to Greek health care workers at publicly-owned hospitals to induce them to buy J&J products; from 2002-2006, in addition to the payments to the agents, approximately EUR500,000 was withdrawn by J&J subsidiary Depuy Hellas employees to cover payments owed to the health care workers by the agents but not yet paid. In Poland, Johnson & Johnson Poland Sp. z.o.o. (wholly owned subsidiary) entered into approximately 4,400 civil contracts between 2000 and 2006, for which the company paid Romanian health care workers of publicly-owned hospitals approximately \$3.65 million, some of which were used to make improper payments. Between 2000 and through 2006, J&J also made approximately 15,000 payments to sponsor travel for publicly-employed Polish health care professionals, totaling approximately \$7.6 million, a portion of which were improper. In Romania, between 2005 and 2008, Johnson & Johnson d.o.o. (wholly-owned Romanian subsidiary) and its employees directly or indirectly authorized the payment of \$140,000 in incentives to publicly-owned Romanian health care professionals (most of whom are government employees) to induce the purchase of pharmaceuticals manufactured by J&J subsidiaries and operating companies. In Iraq, between 2000 and 2003, Janssen Pharmaceutica, NV (wholly owned subsidiary headquartered in Beerse, Belgium) and Cilag AG International (wholly owned subsidiary headquartered in Schaffhausen, Switzerland) were awarded 18 contracts for the sale of pharmaceuticals to the Iraqi Ministry of Health State Company for Marketing Drugs and Medical Appliances under the UN Oil for Food Program, with a total contract value of approximately \$9.9 million, which generated approximately \$6.1 million in profits. Janssen and Cilag secured these contracts through the payment of approximately \$857,387 in kickbacks to the government of Iraq; the kickbacks were paid to the government of Iraq through a Lebanon Agent and concealed from the United Nations by inflating Janssen and Cilag's contract prices by 10%. Among the relevant considerations listed in the DPA are: Johnson and Johnson's agreement to resolve related cases then being investigated by the SEC and the UK Serious Fraud Office (SFO) (para 4-i) and the possibility that were the DOJ to "initiate a prosecution of J&J or one of its operating companies and obtain conviction, instead of entering into this Agreement to defer prosecution, J&J could be subject to exclusion from participation in federal health programs pursuant to 42 U.S.C. Section 1320a-7(a). (para 4-j). Also as outlined in the DPA, J&J agreed to pay a monetary penalty as part of its settlement with the Department of Justice that was "a 25 percent reduction off the bottom of the fine range." (para 6) (Source: Johnson & Johnson, Deferred Prosecution Agreement and Attachment A: Statement of Facts, filed in US v. Depuy, Inc. Case No. 1:11-cr-00099-JDB (D.D.C. April 8, 2011)). SEC: "Without admitting or denying the SEC's allegations, J&J has consented to the entry of a court order permanently enjoining it from future violations of Sections 30A, 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934; ordering it to pay \$38,227,826 in disgorgement and \$10,438,490 in prejudgment interest; and ordering it to comply with certain undertakings regarding its FCPA compliance program." (Source: US Securities and Exchange Commission, Litigation Release No. 21922 / April 8, 2011, "Johnson and Johnson to pay more than \$70 million in settled FCPA enforcement action," Securities and Exchange Commission v. Johnson & Johnson, Civil Action No. 1: 11-CV-00686-EFH (D.D.C., April 8, 2011), accessed at

<http://www.sec.gov/litigation/litreleases/2011/lr21922.htm>.) The US Department of Justice Press Release on the case noted that "The Justice Department acknowledges and expresses its appreciation for the significant assistance provided by the authorities of the 8th Ordinary Interrogation Department of the Athens Court of First Instance and the Athens Economic Crime Squad in Greece; the 5th Investigation Department of the Regional Prosecutor's Office in Radom, Poland; the Fraud Squad of the West Yorkshire Police Department in the United Kingdom; and the SEC's Division of Enforcement, as well as the coordination and cooperation with the authorities of the United Kingdom's Serious Fraud Office." (Source: US Department of Justice Press Release, "Johnson & Johnson Agrees to Pay \$21.4 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act and Oil for Food Investigations," April 8, 2011.)

Sources :

US Securities and Exchange Commission, Litigation Release No. 21922 / April 8, 2011, "Johnson and Johnson to pay more than \$70 million in settled FCPA enforcement action," Securities and Exchange Commission v. Johnson & Johnson, Civil Action No. 1: 11-CV-00686-EFH (D.D.C., April 8, 2011); Johnson & Johnson, Deferred Prosecution Agreement and Attachment A: Statement of Facts, filed in US v. Depuy, Inc. Case No. 1:11-cr-00099-JDB (D.D.C. April 8, 2011), accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/depu-04-08-11depu-dpa.pdf>; US Department of Justice Press Release, "Johnson & Johnson Agrees to Pay \$21.4 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act and Oil for Food Investigations," April 8, 2011, accessed at <http://www.justice.gov/opa/pr/2011/April/11-crm-446.html>. See also Johnson & Johnson Press Release, "Johnson & Johnson Announces Settlement with U.S. Department of Justice and U.S. Securities and Exchange Commission," April 8, 2011, accessed at <http://www.jnj.com/connect/news/all/johnson-johnson-announces-settlement-with-us-department-of-justice-and-us-securities-and-exchange-commission> <http://www.investor.jnj.com/releasedetail.cfm?releaseid=564971> and add the following link: <http://www.sec.gov/litigation/litreleases/2011/lr21922.htm>