

Midway Trading

Case ID:

ST-272

Case Cluster :

Midway Trading

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

New York County District Attorney's Office

Jurisdiction of Foreign Public Official(s) :

Iraq (UN Oil-for-Food)

Year of Settlement:

2005

Month/Day of Settlement (or Notes):

10/20

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Criminal

Legal Form of Settlement:

Guilty Plea

Monetary Sanctions (Types):

Criminal Fine

Total Monetary Sanctions (US\$):

\$250,000.00

Criminal Fine/Penalty (US\$) :

\$250,000

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

Offenses - Alleged:

Grand Larceny

Offenses - Settled:

Grand Larceny

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the New York County District Attorney's Office Press Release on October 20, 2005, "Manhattan District Attorney Robert M. Morgenthau announced today the guilty plea of

a Reston, Virginia-based oil trading company for its involvement in a scheme to pay kickbacks to Iraq in connection with oil purchases made under the United Nations Oil-for-Food Program. MIDWAY TRADING (MIDWAY) pleaded guilty in New York State Court to Grand Larceny in the First Degree in connection with the scheme. According to the charges, Midway and one of its trading partners, Bulf Oil, paid more than \$440,000 in kickbacks to Iraqi officials in connection with oil purchases but falsely represented to the United Nations that no kickbacks were paid. Relying on those false representations, United Nations officials approved the contracts and authorized millions of dollars in payments for the benefit of Iraq from the Oil-for-Food Program. MIDWAY will pay a fine of \$250,000, with \$100,000 due by December 1, 2005. The plea by MIDWAY is part of a continuing investigation by the Manhattan District Attorney's Office into the Oil-for-Food Program. This investigation began as a result of this office's cooperation with the Independent Inquiry Committee into the United Nations Oil-for-Food Program, headed by Paul Volker.[] Through its attorney, MIDWAY OIL admitted in court that in late 2000, the company purchased the right to lift oil from Iraq under the United Nations Oil-for-Food Program from Bulf Oil, a Romanian oil company. Under United Nations resolutions, all money paid for the purchase of Iraqi crude oil was deposited into a UN trust account at a branch of BNP Paribas, a French bank, in Manhattan. Payments from the trust account, including payments for so-called "humanitarian goods" to be sent to Iraq, had to be authorized by United Nations officials. No money for the purchase of crude oil from Iraq was to go directly to Iraq. Under its initial \$42 million agreement with Bulf, MIDWAY was to provide financing for the purchase cost of the Iraqi crude oil and to share any profits from MIDWAY's subsequent sale of that crude oil. An employee of Bulf Oil asked MIDWAY to pay him an additional 25 cents per barrel, an extra payment that MIDWAY did not make, at first. MIDWAY sold the Iraqi crude oil lift to Texaco Corp., which, in turn, sold the crude oil lift to British Petroleum ('BP'). MIDWAY provided BP with a price guarantee. On March 28, 2001, a ship chartered by BP arrived at the Turkish Port of Ceyhan, but was not allowed to lift the oil. On April 1, 2001, MIDWAY wired \$225,000 from an account at SunTrust Bank in Virginia to the Jordan National Bank's correspondent bank account at Chase Manhattan Bank in New York for the benefit of an account in name of the Bulf employee. The \$225,000 was the approximate equivalent of the 25 cent per barrel kickback that the Bulf employee had asked for. On April 2nd and 3rd, the oil was loaded onto BP's ship. MIDWAY later learned that the money wired to the Jordan National Bank was for the benefit of Iraqi government officials and that the 'surcharge' had to be paid as a precondition for oil to be loaded. As a consequence of the price guarantee given to BP and the delay in lifting the oil, MIDWAY lost \$ 1 million on this initial transaction. In September, 2001, MIDWAY acquired the remainder of Bulf Oil's allocation of oil, at a purchase price of \$22 million, under the Oil-for-Food Program. This time, prior to the lift of oil, MIDWAY wired \$215,442.25 to Jordan National Bank's correspondent account at Chase Manhattan Bank in New York in the name of an agent of MIDWAY's. Midway knew that, as in the first transaction, the money wired to the Jordan National Bank account was, in fact, a kickback to be paid to Iraqi officials, in violation of United Nations Security Council Resolution 986. MIDWAY did not inform the UN about its payment to the Jordan National Bank. And, as MIDWAY knew, Bulf Oil's contract for the purchase of Iraqi oil falsely represented that all of the United Nations Security Council resolutions had been complied with. The second lift went smoothly and Midway profited approximately \$375,000 from the sale of the crude oil. The contract purchase price for the oil, \$22 million, was paid into the United Nations trust account for the Oil-for-Food Program. Subsequently, relying on the false representations that no kickbacks had been paid, United Nations officials authorized the disbursement from the account of a like amount, less fees and administrative costs, for various purposes in accordance with program regulations. This included \$13 million in payments for goods to be sent to Iraq." (Source: New York County District Attorney's Office, News Release on Midway Trading Plea, October 20,2005.)

Sources :

New York County District Attorney's Office, News Release on Midway Trading Plea, October 20, 2005, accessed at <http://manhattanda.client.tagonline.com/whatsnew/press/2005-10-20.shtml>; New York County District Attorney's Office, News Release on Vitol SA Plea, November 20, 2007, accessed at <http://manhattanda.client.tagonline.com/whatsnew/press/2007-11-20.shtml>; <http://www.nysun.com/new-york/morgenthau-gains-a-plea-of-guilty-in-un-scandal/21880/>