

Novo Nordisk A/S

Case ID:

ST-290

Case Cluster :

Novo Nordisk A/S

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:

2009

Month/Day of Settlement (or Notes):

05/11

Other Jurisdictions of Settlement:

Denmark

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\$):

\$9,030,145.00

Civil Disgorgement of Profits (US\$) :

\$4,321,523

Civil Prejudgment Interest (US\$) :

\$1,683,556

Civil Fine / Penalty (US\$):

\$3,025,066

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, Art. 8

Offenses - Alleged:

Internal controls violations, Falsification of books and records

Offenses - Settled:

No admission or denial of alleged offenses

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the June 2011 United States Report to the OECD, "On May 11, 2009, Novo Nordisk A/S (Novo), a Danish corporation based in Bagsvaerd, Denmark, was charged in a one-count criminal information with conspiracy to commit wire fraud and to violate the books and records provisions of the FCPA. On the same date, the SEC filed a settled civil complaint against Novo in the U.S. District Court for the District of Columbia. According to court documents, between 2001 and 2003, a Jordan-based agent acting on behalf of Novo, an international manufacturer of insulin, medicines and other pharmaceutical supplies, made improper payments worth approximately \$1.4 million to the former Iraqi government in order to obtain contracts with the Iraqi Ministry of Health to provide insulin and other medicines as part of the Oil-for-Food Program (OFFP). Novo engaged its long-time Jordan-based agent to submit bids on Novo's behalf to Kimadia, the Iraqi State Company for the Importation and Distribution of Drugs and Medical Appliances, a state-owned company which was part of the Iraqi Ministry of Health. Two branches of Novo Nordisk - RONE, based in Athens, Greece, and NEO, based in Amman, Jordan -- handled the sales to the Iraq and supplied the agent with bid prices for each contract. In late 2000 or early 2001, a Kimadia import manager advised the agent that Kimadia required Novo Nordisk to pay a ten percent kickback in order to obtain a contract under the Program. The Kimadia import manager told the agent that Novo Nordisk should increase its prices by ten percent and pay that amount to Kimadia. By doing so, Novo would recover the secret kickback from the U.N. escrow account when the contract, with the inflated price, was subsequently approved for disbursement and paid by the U.N. Beginning in 2001 and continuing through 2003, Novo paid these kickbacks, characterized as "after-sales service fees" ("ASSFs"), by inflating the price of contracts by 10 percent before submitting the contracts to the U.N. for approval. Novo also concealed from the U.N. the fact that the price contained a kickback to the former Iraqi government. In addition, on at least two occasions in 2001, Novo paid increased commissions to its agent to pay the kickbacks to Kimadia. The agent's commission was increased under the guise that the payment was used to cover the agent's increased distribution and marketing costs. All together, Novo paid over \$1.4 million in kickbacks payments on eleven contracts through the agent, and agreed to pay approximately \$1.3 million in ASSFs on two additional contracts. Novo then inaccurately recorded the kickback payments as "commissions" in its books and records." (Source: 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, Novo Nordisk A/S Case Summary at 66-68, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>.) According to the SEC Litigation Release, the Commission acknowledged the assistance of the United Nations Independent Inquiry Committee. (Source: US Securities and Exchange Commission, Litigation Release No. 21033 / May 11, 2009, Securities & Exchange Commission v. Novo Nordisk A/S, Civil Action No. 1:09-CV-00862 (D.D.C.) (EGS), "SEC Files Settled Books and Records and Internal Controls Charges Against Novo Nordisk for Improper Payments to Iraq Under the U.N. Oil for Food Program / Novo Nordisk Agrees to Pay Over \$10 Million in Disgorgement, Interest, and Penalties.")

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, Novo Nordisk A/S Case Summary at 66-68, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US Securities and Exchange Commission, Litigation Release No. 21033 / May 11, 2009, Securities & Exchange Commission v. Novo

Nordisk A/S, Civil Action No. 1:09-CV-00862 (D.D.C.) (EGS), "SEC Files Settled Books and Records and Internal Controls Charges Against Novo Nordisk for Improper Payments to Iraq Under the U.N. Oil for Food Program / Novo Nordisk Agrees to Pay Over \$10 Million in Disgorgement, Interest, and Penalties," accessed at <http://www.sec.gov/litigation/litreleases/2009/lr21033.htm>; Complaint filed May 11, 2009, accessed at <http://www.sec.gov/litigation/complaints/2009/comp21033.pdf>.