

## Oily Rock / Omega Advisors, Inc.

**Case ID:**

ST-293

**Case Cluster :**

Oily Rock

**Jurisdiction of Settlement:**

United States

**Jurisdiction of Settlement / Enforcement Agency:**

Department of Justice; United States Attorney for the Southern District of New York

**Jurisdiction of Foreign Public Official(s) :**

Azerbaijan

**Year of Settlement:**

2007

**Month/Day of Settlement (or Notes):**

06/19

**Other Jurisdictions of Settlement:**

Unknown

**Settlement with Individual or Legal Person?:**

Legal Person

**Type of Settlement:**

Criminal

**Legal Form of Settlement:**

Non-Prosecution Agreement

**Monetary Sanctions (Types):**

Civil Asset Forfeiture

**Total Monetary Sanctions (US\$):**

\$500,000.00

**Criminal Fine/Penalty (US\$) :**

\$0

**Other Civil Monetary Sanctions (US\$):**

\$500

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

**Offenses - Alleged:**

Conspiracy to Bribe Foreign Officials, Conspiracy to Commit Money Laundering, Bribery of Foreign Officials, Violation of Travel Act

**Offenses - Settled:**

Conspiracy to Bribe Foreign Officials, Conspiracy to Commit Money Laundering, Bribery of

Foreign Officials

**Public Procurement Contract / SOE Involved?:**

Yes

**Summary:**

According to the June 2011 United States Report to the OECD, "On May 12, 2005, Viktor Kozeny, Frederic A. Bourke Jr., and David Pinkerton were indicted in the Southern District of New York on charges of conspiracy to violate the FCPA and Travel Act, substantive FCPA violations, substantive Travel Act Violations, conspiracy to commit money laundering, substantive money laundering charges, and, in the case of Bourke and Pinkerton, making false statements. These charges stemmed from their role in a scheme to pay millions of dollars worth of bribes to Azeri government officials to ensure that the defendants' investment consortium would gain, in secret partnership with the Azeri officials, a controlling interest in the State Oil Company of the Azerbaijan Republic (SOCAR) and its substantial oil reserves. According to evidence presented in the trial of Bourke, in August 1997, Kozeny allegedly agreed to transfer to corrupt Azeri officials two-thirds of the vouchers and options purchased by his investment consortium, Oily Rock, and to give them two-thirds of all of the profits arising from his investment consortium's participation in SOCAR's privatization. In addition, evidence presented at trial showed that in June 1998, Bourke knew that Kozeny arranged for Oily Rock to increase its authorized share capital from \$150 million to \$450 million so that the additional \$300 million worth of Oily Rock shares could be transferred to one or more of the Azeri officials as a further bribe payment. Bourke also arranged for two of the corrupt officials to travel to New York City on different occasions in 1998 to receive medical treatment, for which Oily Rock paid. Thereafter, in interviews with the FBI in April and May of 2002, Bourke falsely stated that he was not aware that Kozeny had made the alleged payments to the Azeri Officials. Three others have been charged in connection with their roles in this bribery scheme. Thomas Farrell, a former employee of Oily Rock, was charged in an information with one count of conspiracy to violate the FCPA and one count of violating the FCPA's anti-bribery provisions. On July 31, 2003, Clayton Lewis, a former principal of Omega Advisors and a co-investor in the scheme, was indicted on one count of conspiracy to violate the FCPA and one count of conspiracy to commit money laundering. On August 5, 2003, a grand jury in New York returned an indictment charging the third individual, Hans Bodmer, a Swiss lawyer who represented Kozeny and his investment consortium, with conspiring to violate the FCPA's anti-bribery provisions and conspiracy to commit money laundering. At the United States' request, Korea extradited Mr. Bodmer to the United States in 2004. In June 2007, the Department entered into a nonprosecution agreement with Omega Advisors, regarding its role as a major investor in the consortium." (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, Oily Rock Case Summary at 102-103.)

**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, Oily Rock Case Summary at 102-103, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. In Re: Omega Advisors, Inc., Non-Prosecution Agreement dated June 19, 2007, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/omega-advisors/06-19-07omega-agree.pdf>; United States Attorney for Southern District of New York Press Release, "U.S. Announces Settlement with Hedge Fund Omega Advisors, Inc. in Connection with Omega's Investment in Privatization Program in Azerbaijan," July 6, 2007, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/omega-advisors/07-06-07omega-settlement.pdf> (accessed on September 14, 2011).

