

Johnson & Johnson / DePuy International Ltd. (UK subsidiary)

Case ID:

ST-242

Case Cluster :

Johnson & Johnson

Jurisdiction of Settlement:

United Kingdom

Jurisdiction of Settlement / Enforcement Agency:

Serious Fraud Office

Jurisdiction of Foreign Public Official(s) :

Greece

Year of Settlement:

2011

Month/Day of Settlement (or Notes):

04/08

Other Jurisdictions of Settlement:

United States

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Civil

Legal Form of Settlement:

Civil Recovery Order (Proceeds of Crime Act)

Monetary Sanctions (Types):

Civil Recovery Order

Total Monetary Sanctions (US\$):

\$7,877,400.00

Criminal Fine/Penalty (US\$) :

\$0

Civil Disgorgement of Profits (US\$) :

\$7,877,400

Civil Prejudgment Interest (US\$) :

\$0

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

Offenses - Alleged:

Unlawful Conduct - payments made by DePuy International Limited to intermediaries for the purpose of making corrupt payments to Greek medical professionals working in the Greek public health system

Offenses - Settled:

Unlawful Conduct - payments made by DePuy International Limited to intermediaries for the purpose of making corrupt payments to Greek medical professionals working in the Greek public health system

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to a UK Serious Fraud Office Press Release, on April 8, 2011, the SFO obtained a Civil Recovery Order for GBP 4.829 million and prosecution costs against DePuy International Limited (a UK subsidiary of the US parent company Johnson & Johnson), "in recognition of unlawful conduct relating to the sale of orthopaedic products in Greece between 1998 and 2006." The SFO launched its investigation following a referral from the US Department of Justice in October 2007 and worked closely with the US DOJ and the Securities and Exchange Commission. "The unlawful conduct consisted of payments made by DePuy International Limited to intermediaries for the purpose of making corrupt payments to Greek medical professionals working in the Greek public health system. Payments to the intermediaries amounted to twenty percent of the price, at which the orthopaedic product was ultimately sold. These payments covered the commission for the intermediary and were available to be used to pay inducements or rewards for the use of orthopaedic products sold by DePuy International Limited. [] The corporate benefit sought by DePuy International Limited, as a result of the payments to intermediaries, was retention and enhancement of market position. The Greek government paid DePuy International Limited's intermediaries approximately £33.5 million for orthopaedic products between 1998 and 2007. [] On the facts of this case, criminal sanction of the Greek conduct has been achieved by the conclusion of a Deferred Prosecution Agreement with DePuy International Limited's parent company and the DOJ. The Director of the Serious Fraud Office has concluded that a prosecution was therefore prevented in this jurisdiction by the principles of double jeopardy. The underlying purpose of the rule against double jeopardy is to stop a defendant from being prosecuted twice for the same offence in different jurisdictions. The DOJ Deferred Prosecution Agreement has the legal character of a formally concluded prosecution and punishes the same conduct in Greece that had formed the basis of the Serious Fraud Office investigation. Combined criminal and civil sanctions have therefore been imposed in the United States in respect of Depuy International Limited's parent and assets have been frozen in the ongoing Greek investigation, all relating to the same conduct in Greece. Consequently the Serious Fraud office is satisfied that the most appropriate sanction is a Civil Recovery Order, under the Proceeds of Crime Act 2002. As has been described approximately £33.5 million represents the sales, tainted by the unlawful conduct, made to public hospitals by DePuy International Limited's Greek intermediaries. Approximately £14.8 million of this passed from the Greek intermediary to DePuy International Limited in respect of orthopaedic products for use in the public health care system. Consequently £14.8 million can be said to represent unlawfully obtained property. In the context of a global resolution, the Serious Fraud Office has taken particular note of the fact of disgorgement and recovery in more than one jurisdiction for the same underlying unlawful conduct. The Serious Fraud Office has also taken into account asset tracing difficulties." (Source: UK Serious Fraud Office Press Release, "DePuy International Limited ordered to pay 4.829 million pounds in Civil Recovery Order," April 8, 2011.)

Sources :

UK Serious Fraud Office Press Release, "DePuy International Limited ordered to pay 4.829 million pounds in Civil Recovery Order," April 8, 2011, accessed at:

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/deputy-international-limited-ordered-to-pay-4829-million-in-civil-recovery-order.aspx>; See also, UK Serious Fraud Office Press Release, "British executive jailed for part in Greek healthcare corruption," April 14, 2010, accessed at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2010/british-executive-jailed-for-part-in-greek-healthcare-corruption.aspx>.