

United States v. Vitol Inc. (E.D.N.Y. 2020)

United States v. Rodrigo Garcia Berkowitz (E.D.N.Y. 2019)

Nature of the Business.

Vitol Inc. is a U.S.-based affiliate of a global energy trading company.

Rodrigo Garcia Berkowitz, a Brazilian citizen, worked as a fuel trader for Petrobras.

Influence to be Obtained.

According to DOJ, Vitol bribed foreign officials in Brazil, Ecuador, and Mexico between 2005 and 2014. The company was charged with two counts of conspiracy to violate the anti-bribery provisions of the FCPA for alleged payments to win contracts with SOEs in the oil and gas sector in those three countries for the purchase and sale of oil. Specifically, in Brazil, Vitol allegedly bribed at least nine officials at Petrobras, Brazil's state-owned oil company, in order to win fuel oil contracts with the government – including Berkowitz. Berkowitz and his unnamed co-conspirators allegedly transferred at least \$14.4 million in bribes in connection with the oil contracts.

In Mexico and Ecuador, the company entered into consulting arrangements, through shell companies, and created fake invoices to pay bribes to foreign officials.

Enforcement.

On December 3, 2020, the DOJ announced it had entered into a deferred prosecution agreement with Vitol in which the company agreed to pay a combined \$135 million. Vitol received a 25% discount off the Sentencing Guidelines base for its cooperation and remediation. The DOJ also credited \$45 million to be paid to the Brazilian authorities and \$28.7 million to the CFTC in related enforcement actions.

On February 8, 2019, the DOJ filed a conspiracy to commit money laundering charge against Berkowitz. He pleaded guilty on the same date. Sentencing remain pending.

Key Facts

Citation. *United States v. Vitol Inc.*, Case No. 20-CR-539 (E.D.N.Y. 2020); *United States v. Rodrigo Garcia Berkowitz*, No. 19-cr-00064 (E.D.N.Y. 2019)

Date Filed. December 3, 2020 (Vitol); February 8, 2019 (Berkowitz).

Country. Brazil, Ecuador, and Mexico.

Date of Conduct. 2005 – 2014.

Amount of the value. More than \$8 million.

Amount of business related to the payment. Not stated.

Intermediary. Intermediary.

Foreign official. Foreign officials at Petrobras, including Berkowitz, and unnamed foreign officials in the Ecuadorian and Mexican governments.

FCPA Statutory Provision. None stated.

Other Statutory Provision. Conspiracy (Anti-Bribery) (Vitol); Conspiracy (Money Laundering) (Berkowitz)

Disposition. Deferred Prosecution Agreement (Vitol); Guilty Plea (Berkowitz)

Defendant Jurisdictional Basis. Domestic Concern and Territorial Jurisdiction (Vitol); Conspiracy (Berkowitz).

Defendant's Citizenship. United States (Vitol); Brazil (Berkowitz).

Total Sanction. \$135 million (Vitol); Pending (Berkowitz).

Compliance Monitor/Reporting Requirements. 3 Years Reporting.

Related Enforcement Actions. *United States v. Aguilar*, Case No. 1:20-CR-390 (E.D.N.Y. 2020).

Total Combined Sanction. \$135 million (Vitol).