

United States v. BK Medical ApS (2016)

Nature of the Business.

BK Medical ApS is the Danish subsidiary of the Massachusetts-based Analogic Corporation. Analogic designs and manufactures medical imaging, ultrasound, and security technology systems. Analogic maintains a class of common stock on the NASDAQ exchange. BK Medical ApS focuses on the manufacture and sale of Analogic ultrasound systems.

Influence to be Obtained.

According to the DOJ, between 2001 and 2011, BK Medical engaged in an improper payment scheme to channel approximately \$20 million in payments to various third parties and conceal those payments by creating fictitious invoices, causing Analogic to falsify its books and records.

As the DOJ explains, the scheme involved the creation of fictitious documents reflecting inflated purchase prices for products BK Medical sold to its Russian distributor. The DOJ alleges that, at the Russian distributor's request, BK Medical would facilitate the creation of inflated invoices which the Russian distributor would pay, and at a later point in time, the Russian distributor would direct BK Medical to wire the excess funds to an unknown entity. According to the DOJ, BK Medical complied with the Russian distributor's instructions despite not knowing how the funds were being used. The DOJ alleges that there is at least some evidence that the payments were ultimately made to doctors employed by Russian state-owned entities.

Enforcement.

On June 21, 2016, the DOJ announced that it had entered into a non-prosecution agreement with BK Medical for violations of the books-and-records and internal controls provisions of the FCPA. According to the non-prosecution agreement, BK Medical would agree to pay a \$3.4 million criminal penalty to resolve the charges. The DOJ's sanction was in addition to an \$11.5 million sanction imposed by the SEC.

Key Facts

Citation. *United States v. BK Medical ApS* (2016).

Date Filed. July 11, 2016.

Country. Russia.

Date of Conduct. 2001 – 2011.

Amount of the Value. Approximately \$20 million.

Amount of Business Related to the Payment. Not Stated.

Intermediary. Third-Party Distributors.

Foreign Official. Unnamed Foreign Officials.

FCPA Statutory Provision. Books-and-Records; Internal Controls.

Other Statutory Provision. None.

Disposition. Deferred Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer.

Defendant's Citizenship. United States.

Total Sanction. \$3,402,000.

Compliance Monitor/Reporting Requirements. Reporting Requirements.

Related Enforcement Actions. *In the Matter of Analogic Corporation and Lars Frost*.

Total Combined Sanction. \$14,884,962.