

United States v. Flowserve Corp. (D.D.C. 2008) United States v. Flowserve Pompes SAS (D.D.C. 2008)

Nature of the Business.

Sale of pumps and other oil refinery equipment to Iraq under the U.N. Oil-for-Food Program.

Influence to be Obtained.

In April 1995, the U.N. adopted Security Council Resolution 986, which permitted the government of Iraq to sell oil and to use proceeds from those sales to purchase humanitarian supplies such as food for the Iraqi people ("U.N. Oil-for-Food Program"). In an extensive scheme, the Iraqi government received illicit payments in the form of surcharges from oil purchasers and kickbacks, often termed "after sales service fees," from humanitarian goods suppliers. The kickback payments were masked by inflating the contract price, usually by 10% of the contract value.

Flowserve Corporation ("Flowserve"), an American corporation, was involved in the U.N. Oil-for-Food Program through two of its foreign subsidiaries including Flowserve Pompes SAS, a French subsidiary. Between 2001 and 2003, Flowserve Pompes entered into nineteen contracts in connection to which kickback payments to the Iraqi government were either made or authorized. Flowserve Pompes offered to pay a total of \$778,409 in payments, of which approximately \$604,651 was in fact paid to the Iraqi government through a Jordanian agent pursuant to side agreements for nonexistent after-sales services.

The government did not allege bribery of any individual foreign governmental officials.

Enforcement.

On February 21, 2008, Flowserve entered into a three-year deferred prosecution agreement with the DOJ under which Flowserve acknowledged responsibility for its subsidiary Flowserve Pompes SAS's actions. Flowserve agreed to pay a penalty of \$4,000,000.

On the same day, the DOJ filed a criminal information against Flowserve Pompes SAS, charging the company with conspiring to commit wire fraud and violate the FCPA's books-and-records provisions.

Key Facts

Citation. *United States v. Flowserve Corp.*, No. 1:08-00035 (D.D.C. 2008); *United States v. Flowserve Pompes SAS*, No. 1:08-cr-00035 (D.D.C. 2008).

Date Filed. May 14, 2008.

Country. Iraq.

Date of Conduct. 2001 – 2003.

Amount of the Value. \$778,409 in paid or authorized kickbacks to the Iraqi government.

Amount of Business Related to the Payment. €7,435,381.

Intermediary. Jordanian Agent.

Foreign Official. None.

FCPA Statutory Provision.

- **Flowserve Corp.** None.
- **Flowserve Pompes.** Conspiracy (Books-and-Records).

Other Statutory Provision.

- **Flowserve Corp.** None.
- **Flowserve Pompes.** Conspiracy (Wire Fraud).

Disposition.

- **Flowserve Corp.** Deferred Prosecution Agreement.
- **Flowserve Pompes.** Deferred Prosecution Agreement.

Defendant Jurisdictional Basis.

- **Flowserve Corp.** Issuer.
- **Flowserve Pompes.** Conspiracy; Agent of Issuer.

Defendant's Citizenship.

- **Flowserve Corp.** United States.
- **Flowserve Pompes.** France.

Total Sanction. \$4,000,000.

Compliance Monitor/Reporting Requirements. Compliance Monitor.

Related Enforcement Actions. *SEC v. Flowserve Corp.*

Total Combined Sanction. \$10,574,225.