

United States v. Novo Nordisk A/S (D.D.C. 2009)

Nature of the Business.

Novo Nordisk A/S is an international manufacturer of insulin, medicines, and other pharmaceutical supplies headquartered in Denmark.

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.

Novo Nordisk paid illegal kickbacks to the former government of Iraq to secure contracts to provide insulin and other medical supplies to Iraq under the U.N. Oil-for-Food Program. Novo Nordisk agents and employees in Greece and Jordan handled the sales to Iraq. Novo Nordisk inflated the price of contracts by 10% before submitting them to the United Nations for approval and then used the extra funds to make illegal payments to the Iraqi Ministry of Health through a Jordanian intermediary. Novo Nordisk inaccurately recorded the payments as "commissions" in its books and records.

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

Enforcement.

Federal prosecutors filed a criminal information against Novo Nordisk on May 11, 2009 charging conspiracy to commit wire fraud and violate the books and records provisions of the FCPA. Pursuant to a deferred prosecution agreement, Novo Nordisk agreed to pay a \$9 million fine.

In a related settlement with the SEC, Novo Nordisk agreed to pay \$3,025,066 in civil penalties and \$6,005,079 in disgorgement and prejudgment interest.

Key Facts

Citation. *United States v. Novo Nordisk A/S*, No. 09-cr-00126 (D.D.C. 2009).

Date Filed. May 11, 2009.

Country. Iraq.

Date of Conduct. 2001 – 2003.

Amount of the Value. \$1.4 million.

Amount of Business Related to the Payment. €22 million.

Intermediary. Agent.

Foreign Official. Kimadia, a state-owned company which was part of the Iraqi Ministry of Health.

FCPA Statutory Provision. Conspiracy (Books-and-Records).

Other Statutory Provision. Conspiracy (Wire Fraud).

Disposition. Deferred Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer.

Defendant's Citizenship. Denmark.

Total Sanction. \$9,000,000.

Compliance Monitor/Reporting Requirements. None.

Related Enforcement Actions. *SEC v. Novo Nordisk A/S*.

Total Combined Sanction. \$18,030,145.