

United States v. Panalpina World Transport (Holding) Ltd. (S.D. Tex. 2010)

United States v. Panalpina, Inc. (S.D. Tex. 2010)

Nature of the Business.

Panalpina World Transport (Holding) Ltd. is a global freight forwarding and logistics service firm based in Basel, Switzerland. Panalpina, Inc. is its U.S.-based subsidiary, incorporated in New York.

Influence to be Obtained.

From 2002 to 2007, Panalpina World Transport (Holding) Ltd. ("Panalpina") operated through subsidiaries and affiliates to pay bribes to numerous foreign officials on behalf of many of its customers in the oil and gas industry. It engaged in this scheme to circumvent local rules and regulations relating to the import of goods and materials into numerous foreign jurisdictions. Several of Panalpina's customers also admitted that they approved of or condoned the payment of bribes on their behalf, and falsely recorded the bribe payments made on their behalf as legitimate business expenses in their corporate books, records, and accounts.

Between 2002 and 2007, Panalpina, Inc. engaged in a scheme to pay bribes to Nigerian customs officials on behalf of its customers in the oil and gas industry. Panalpina, Inc. assisted its Nigerian affiliate and agent, Panalpina World Transport (Nigeria) Limited, in making improper payments to Nigerian officials and in concealing the true nature of those payments in the customers' books and records. These payments were used to offer preferential, expedited clearance for Panalpina customers and circumvent local customs laws and processes.

Enforcement.

On November 4, 2010, the DOJ and Panalpina entered into a deferred prosecution agreement, under which Panalpina agreed to pay a penalty of \$70,560,000, review and revise its existing internal controls, policies, and procedures as necessary, and provide a yearly report to the DOJ on the remediation and implementation of its compliance program and internal controls, policies, and procedures for a period of three years.

On November 4, 2010, the DOJ and Panalpina, Inc. entered into a plea agreement, under which Panalpina, Inc. pleaded guilty, agreed to pay a penalty of \$70,560,000, and to implement a compliance and ethics program designed to detect and prevent violations of the FCPA, other anti-corruption laws, and all applicable foreign bribery laws.

Panalpina, Inc. settled related charges with the SEC on November 4, 2010. Three of Panalpina's customers in the oil exploration and production industry pleaded guilty to and settled related charges with the DOJ and SEC on the same day.

Key Facts

Citation. *United States v. Panalpina World Transport (Holding) Ltd.*, No. 4:10-cr-769 (S.D. Tex. 2010); *U.S. v. Panalpina, Inc.*, No. 4:10-cr-765 (S.D. Tex. 2010).

Date Filed. November 4, 2010.

Country. Angola, Azerbaijan, Brazil, Kazakhstan, Nigeria, Russia, Turkmenistan.

Date of Conduct. 2002 – 2007.

Amount of the Value. Approximately \$49 million.

Amount of Business Related to the Payment. Not Stated.

Intermediary. Subsidiary; Agent.

Foreign Official. Customs officials in the Nigerian Customs Service; Angolan customs and immigration officials; Azeri government officials responsible for assessing and collecting duties and tariffs on imported goods; Brazilian government officials responsible for assessing and collecting duties and tariffs on imported goods; Kazakh customs and tax officials; Russian customs officials; Turkmen customs, immigration, tax and labor officials.

FCPA Statutory Provision.

- **Panalpina World Transport.** Conspiracy (Anti-Bribery); Anti-Bribery.
- **Panalpina, Inc.** Conspiracy (Books-and-Records); Aiding and Abetting (Books-and-Records).

Other Statutory Provision. None

Disposition.

- **Panalpina World Transport.** Deferred Prosecution Agreement.
- **Panalpina, Inc.** Plea Agreement.

Defendant Jurisdictional Basis.

- **Panalpina World Transport.** Territorial Jurisdiction; Conspiracy.
- **Panalpina, Inc.** Domestic Concern.

Defendant's Citizenship.

- **Panalpina World Transport.** Switzerland.
- **Panalpina, Inc.** United States.

Total Sanction. \$70,560,000.

Compliance Monitor/Reporting Requirements.
Reporting Requirements.

Related Enforcement Actions. *SEC v. Panalpina, Inc.*

Total Combined Sanction. \$81,889,369.