

SEC v. Archer-Daniels-Midland Company (2013)

Nature of the Business.

Archer Daniels Midland Company (“ADM”), a Delaware corporation headquartered in Illinois, manufactures, processes, and sells agricultural commodities. ADM’s common stock is registered pursuant to Section 12 of the Exchange Act.

Influence to be Obtained.

According to the SEC’s Complaint, ADM’s subsidiaries in Germany and the Ukraine—Alfred C. Toepfer, International G.m.b.H. (“ACTI Hamburg”) and Alfred C. Toepfer International (Ukraine) Ltd. (“ACTI Ukraine”)—engaged in multiple fraudulent schemes to pay Ukrainian officials to release VAT refunds that were being delayed or refused by the Ukrainian government. Allegedly, ACTI Ukraine and ACTI Hamburg entered into fraudulent agreements with a shipping company and an insurance company to raise the funds and funnel the payments, and misrepresented the bribes as charitable donations or “depreciations” required by the Ukrainian government.

Enforcement.

On December 20, 2013, the SEC filed a complaint against ADM, alleging violations of the books-and-records and internal controls provisions of the FCPA. ADM admitted the allegations and agreed to the entry of a final judgment permanently enjoining the company from violating the FCPA, and agreed to pay \$36,467,366 in disgorgement and prejudgment interest.

In a parallel criminal action, ADM entered into a non-prosecution agreement with the DOJ, and its Ukrainian subsidiary pleaded guilty to one count of conspiring to violate the FCPA. ADM and its subsidiary paid a total of approximately \$17.8 million in criminal penalties.

Key Facts

Citation. *SEC v. Archer-Daniels-Midland Co.*, No. 13-cv-2279 (C.D. Ill. Dec. 20, 2013).

Date Filed. December 20, 2013.

Country. Ukraine.

Date of Conduct. 2002 – 2008.

Amount of the Value. Approximately \$22 million.

Amount of Business Related to the Payment. Approximately \$100 million.

Intermediary. Third-party Vendor; Subsidiaries.

Foreign Official. Unnamed Ukrainian government officials.

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

Other Statutory Provision. None.

Disposition. Final Judgment.

Defendant Jurisdictional Basis. Issuer.

Defendant’s Citizenship. United States.

Total Sanction. \$26,467,366.

Compliance Monitor/Reporting Requirements. None.

Related Enforcement Actions. *In re Archer Daniels Midland Company* (Dec. 20, 2013) (non-prosecution agreement).

Total Combined Sanction. \$54,238,979.