

SEC Charges Eli Lilly and Company with FCPA Violations

FOR IMMEDIATE RELEASE

2012-273

Washington, D.C., Dec. 20, 2012 — The Securities and Exchange Commission today charged Eli Lilly and Company with violations of the Foreign Corrupt Practices Act (FCPA) for improper payments its subsidiaries made to foreign government officials to win millions of dollars of business in Russia, Brazil, China, and Poland.

The SEC alleges that the Indianapolis-based pharmaceutical company's subsidiary in Russia used offshore "marketing agreements" to pay millions of dollars to third parties chosen by government customers or distributors, despite knowing little or nothing about the third parties beyond their offshore address and bank account information. These offshore entities rarely provided any services and in some instances were used to funnel money to government officials in order to obtain business for the subsidiary. Transactions with offshore or government-affiliated entities did not receive specialized or closer review for possible FCPA violations. Paperwork was accepted at face value and little was done to assess whether the terms or circumstances surrounding a transaction suggested the possibility of foreign bribery.

The SEC alleges that when the company did become aware of possible FCPA violations in Russia, Lilly did not curtail the subsidiary's use of the marketing agreements for more than five years. Lilly subsidiaries in Brazil, China, and Poland also made improper payments to government officials or third-party entities associated with government officials. Lilly agreed to pay more than \$29 million to settle the SEC's charges.

"When a parent company learns tell-tale signs of a bribery scheme involving a subsidiary, it must take immediate action to assure that the FCPA is not being violated," said Antonia Chion, Associate Director in the SEC Enforcement Division. "We strongly caution company officials from averting their eyes from what they do not wish to see."

Kara Novaco Brockmeyer, Chief of the SEC Enforcement Division's Foreign Corrupt Practices Unit, added, "Eli Lilly and its subsidiaries possessed a 'check the box' mentality when it came to third-party due diligence. Companies can't simply rely on paper-thin assurances by employees, distributors, or customers. They need to look at the

surrounding circumstances of any payment to adequately assess whether it could wind up in a government official's pocket.”

As alleged in the SEC's complaint filed in federal court in Washington D.C.:

- Lilly's subsidiary in Russia paid millions of dollars to offshore entities for alleged “marketing services” in order to induce pharmaceutical distributors and government entities to purchase Lilly's drugs, including approximately \$2 million to an offshore entity owned by a government official and approximately \$5.2 million to offshore entities owned by a person closely associated with an important member of Russia's parliament. Despite the company's recognition that the marketing agreements were being used to “create sales potential” with government customers and that it did not appear that any actual services were being rendered under the agreements, Eli Lilly allowed its subsidiary to continue using the agreements for years.
- Employees at Lilly's subsidiary in China falsified expense reports in order to provide spa treatments, jewelry, and other improper gifts and cash payments to government-employed physicians.
- Lilly's subsidiary in Brazil allowed one of its pharmaceutical distributors to pay bribes to government health officials to facilitate \$1.2 million in sales of a Lilly drug product to state government institutions.
- Lilly's subsidiary in Poland made eight improper payments totaling \$39,000 to a small charitable foundation that was founded and administered by the head of one of the regional government health authorities in exchange for the official's support for placing Lilly drugs on the government reimbursement list.

Lilly agreed to pay disgorgement of \$13,955,196, prejudgment interest of \$6,743,538, and a penalty of \$8.7 million for a total payment of \$29,398,734. Without admitting or denying the allegations, Lilly consented to the entry of a final judgment permanently enjoining the company from violating the anti-bribery, books and records, and internal controls provisions of the FCPA. Lilly also agreed to comply with certain undertakings including the retention of an independent consultant to review and make recommendations about its foreign corruption policies and procedures. The settlement is subject to court approval.

The SEC's investigation was conducted by Steven A. Susswein. The SEC acknowledges the assistance of the U.S. Department of Justice's Fraud Section and the Federal Bureau of Investigation.

###

Related Materials

- [SEC Complaint](#)