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U.S. Securities and Exchange Commission

U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 19991 / February 7, 2007

Securities and Exchange Commission v. El Paso Corporation, Civil Action No. 07CV00899 (S.D.N.Y.)

SEC Files Settled Books and Records and Internal Controls Charges Against El Paso Corporation For Improper Payments to Iraq Under the U.N. Oil for Food Program - - Company Agrees to Pay \$7.7 Million

The Securities and Exchange Commission today filed Foreign Corrupt Practices Act books and records and internal controls charges against El Paso Corporation ("El Paso"), a Texas-based energy company, in the U.S. District Court for the Southern District of New York. The Commission's complaint alleges that from approximately June 2001 through June 2002, El Paso, and its predecessor in-interest The Coastal Corporation, indirectly made approximately \$5.5 million in illegal surcharge payments to Iraq in connection with its purchases of crude oil from third parties under the U.N. Oil for Food Program. The Program was intended to provide humanitarian relief for the Iraqi population, which faced severe hardship under international trade sanctions. However, beginning in August 2000, officials of Iraq's State Oil Marketing Organization ("SOMO"), began demanding illegal kickbacks. The kickbacks were made in the form of surcharges, and were sent to Iraqi-controlled accounts at banks in Jordan and Lebanon.

According to the Commission's Complaint:

In September 2000, The Coastal Corporation – which merged with an El Paso subsidiary in January 2001 - received its first surcharge demand from a SOMO official. An El Paso consultant and former Coastal official arranged a \$201,877 surcharge payment on the company's behalf, which was made to an Iraqi-controlled account at Ahli Bank in Jordan. After receiving notice from SOMO that all oil contracts would include surcharges, El Paso ceased direct purchases from SOMO. Instead, it continued its purchases through third parties. Beginning in June 2001, El Paso entered into fourteen additional third-party transactions involving fifteen contracts to purchase some 21.4 million barrels of oil. Approximately 25 to 30 cents of every barrel was illegally kicked back to Iraq by third parties. El Paso's oil traders had to factor the surcharge into their oil price, and there are recorded conversations of the company's officials and traders discussing the surcharges. El Paso knew, or was reckless in not knowing, that \$5.5 million in illegal surcharges were made on those contracts, and passed back to El Paso in premiums.

El Paso failed to maintain an adequate system of internal controls to detect and prevent the payments. Although El Paso inserted a provision in some

contracts requiring the third party to represent that it had not paid surcharges, El Paso failed to conduct due diligence to ensure that surcharges were not paid. Recorded conversations reveal El Paso's knowledge that the provision was entirely ineffective. In one conversation, a third party that indicated he was willing to pay illegal surcharges to Iraq indicated that he would be equally willing to sign a false certification denying the payment. El Paso's accounting for its Oil for Food transactions failed properly to record the nature of the company's payments. In at least fifteen transactions, a portion of the company's price for oil constituted kickbacks to Iraq. The company failed to so designate those payments, characterizing them instead simply as part of the cost of goods sold. El Paso ceased its oil trading and refinery business entirely by March 2004.

El Paso, without admitting or denying the allegations in the Commission's complaint, consented to the entry of a final judgment permanently enjoining it from future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934, ordering it to disgorge \$5,482,363 in profits, and to pay a civil penalty of \$2,250,000. El Paso will satisfy its disgorgement obligation by forfeiting \$5,482,363 pursuant to a non-prosecution agreement with the U.S. Attorney's Office for the Southern District of New York.

Since being approached by the Commission's staff, El Paso has cooperated with the Commission's investigation, which is continuing. The Commission acknowledges the assistance of the United States Attorney's Office for the Southern District of New York and the United Nations Independent Inquiry Committee.

▶ [SEC Complaint in this matter](#)

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