

[Home](#) | [Previous Page](#)

U.S. Securities and Exchange Commission

U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 20410 / December 20, 2007

Securities and Exchange Commission v. Akzo Nobel, N.V., Civil
Action No. 07-CV-02293 (D.D.C.) (HHK)

SEC Files Settled Books and Records and Internal Controls Charges Against Akzo Nobel N.V. For Improper Payments to Iraq Under the U.N. Oil for Food Program — Company Agrees to Pay Over \$2.9 Million

The Securities and Exchange Commission today filed Foreign Corrupt Practices Act books and records and internal controls charges against Akzo Nobel N.V., a Netherlands-based pharmaceutical company, in the U.S. District Court for the District of Columbia. The Commission's complaint alleges that from 2000 to 2003, two of Akzo Nobel's subsidiaries authorized and made \$279,491 in kickback payments in connection with their sales of humanitarian goods to Iraq under the U.N. Oil for Food Program (the "Program"). The kickbacks were characterized as "after-sales service fees" ("ASSFs"), but no bona fide services were performed. The Program was intended to provide humanitarian relief for the Iraqi population, which faced severe hardship under international trade sanctions. It allowed the Iraqi government to purchase humanitarian goods through a U.N. escrow account. The kickbacks paid in connection with Akzo Nobel's subsidiaries' sales to Iraq bypassed the escrow account and were paid by third parties to Iraqi-controlled accounts in Lebanon and Jordan.

According to the Commission's Complaint:

Akzo Nobel's subsidiary Intervet International B.V. entered into one Program contract involving a kickback payment of \$38,741. During the Program, Intervet conducted business in Iraq through two separate agents, who were paid jointly on all Iraqi contracts. In August 2000, the agents' fees were 2.5 percent each. In September 2000, one of the agents informed Intervet that the Iraqi ministry required that Intervet make a five percent kickback under a Program contract under negotiation. Although Intervet initially refused to make the payment, at the contract signing, an Intervet employee who was aware of the kickback demand saw the agent deliver an envelope to one of the Iraqi representatives. Shortly thereafter, the agent sought reimbursement of the five percent kickback made on the contract. In order to reimburse the agent for the kickback while not accurately reflecting the true purpose of the payment in the company's books and records, the Intervet employees agreed to revert to Intervet's pre-August 2000 commission arrangement with its two agents, giving each agent a five percent commission. By doing so, the agents could keep the 2.5 percent they were each entitled to receive and the agent who paid the kickback could be reimbursed for the five percent passed on to the Iraqi

ministry.

Akzo Nobel's subsidiary N.V. Organon entered into three contracts that involved the payment of \$240,750 in ASSF payments. The same agent that worked on the Intervet transaction was involved in each of these transactions. On the first contract, Organon and the Iraqi ministry agreed on an initial contract price. However, when Organon prepared the contract documents that were approved by the U.N., Organon inflated the contract price by ten percent to cover the ASSF payment. On the two subsequent contracts, Organon simply agreed with the Iraqi ministry on an initial contract price that was inflated by ten percent, and then submitted that inflated contract price in the U.N. documents. An Organon employee created backdated price quotes that matched the pricing reflected in the three contracts. The agent's commission was increased from five percent to fifteen percent to account for the ten percent kickback. On the first contract, the agent requested that Organon pay ten percent of his commission to an entity called "Sabbagh Drugstore." On the remaining two contracts, the agent requested that Organon pay the extra ten percent commissions directly to an account in his name. The Organon employees were aware that the contract price submitted to the U.N. was inflated by ten percent and that the increase in the agent's commission resulted in money going directly to the Iraqi Ministry of Health, also known as Kimadia.

Akzo Nobel knew or was reckless in not knowing that illicit payments were either offered or paid in connection with all of these transactions. Akzo Nobel failed to maintain an adequate system of internal controls to detect and prevent the payments. Akzo Nobel's accounting for these transactions failed properly to record the nature of the company's payments, and characterized the ASSFs as legitimate commission payments to the agent.

Akzo Nobel, 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 \$1,647,363 in profits, plus \$584,150 in pre-judgment interest, and to pay a civil penalty of \$750,000. Akzo Nobel will also enter into a non-prosecution agreement with the U.S. Department of Justice, Fraud Section. Akzo Nobel's former subsidiary will enter into a criminal disposition with the Dutch Public Prosecutor pursuant to which it will pay a fine.

The Commission considered remedial acts promptly undertaken by Akzo Nobel, which self-reported, and cooperation afforded the Commission staff in its continuing investigation. The Commission acknowledges the assistance of the Department of Justice, Fraud Section and the United Nations Independent Inquiry Committee.

► [SEC Complaint in this matter](#)

<http://www.sec.gov/litigation/litreleases/2007/lr20410.htm>

[Home](#) | [Previous Page](#)

Modified: 12/20/2007