

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

## U.S. Securities and Exchange Commission

### U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 20353 / October 31, 2007

*Securities and Exchange Commission v. Ingersoll-Rand Company Ltd.*, Civil Action No. 107- CV- 01955 (D.D.C.) (JDB)

#### **SEC Files Settled Books and Records and Internal Controls Charges Against Ingersoll-Rand Company Ltd. For Improper Payments to Iraq Under the U.N. Oil for Food Program - - Company Agrees to Pay Over \$4.2 Million and to Make Certain Undertakings Regarding its Foreign Corrupt Practices Act Compliance Program**

The Securities and Exchange Commission today filed Foreign Corrupt Practices Act books and records and internal controls charges against Ingersoll-Rand Company Ltd., a New Jersey-based industrial equipment company, in the U.S. District Court for the District of Columbia. The Commission's complaint alleges that from 2000 through 2003, four of Ingersoll-Rand's subsidiaries entered into contracts in which \$963,148 in kickback payments were made and \$544,697 in additional payments were authorized in connection with 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 by Ingersoll-Rand's subsidiaries and third parties diverted funds out of the escrow account and into an Iraqi slush fund. The contracts submitted to the U.N. did not disclose that the illicit payments were included in the inflated contract prices. The complaint also alleges that \$8,000 in "pocket money" and travel expenses were paid to Iraqi government officials in connection with a trip to Italy.

According to the Commission's Complaint:

Ingersoll-Rand's German subsidiary ABG entered into six Program contracts involving kickback payments of \$718,637. In November 2000, shortly after an ABG salesman negotiated two contracts in Baghdad, the office of Ingersoll-Rand's Chairman received an anonymous fax alerting the company to the kickback arrangement. Ingersoll-Rand initiated an investigation and questioned the salesman, who admitted to agreeing to pay back \$292,578 to the Iraqi Ministry. ABG attempted to go forward with the contracts with some disclosure to the U.N. that money was going back to Iraq. However, the U.N. advised that the payments were not allowed and the contracts were never concluded. Ingersoll-Rand did not withdraw from the Program and failed to conduct appropriate due diligence to prevent the payment of ASSFs on other Program contracts. Indeed, in the following

year, ABG negotiated four additional contracts. These were distributorship agreements, in which ABG sold its products to intermediaries that ABG knew would resell them into Iraq. Ingersoll-Rand either knew or was reckless in not knowing that the distributors made, or agreed to make, a total of \$426,059 in kickback payments on the four contracts.

Ingersoll-Rand's subsidiary I-R Italiana entered into four Program contracts involving a total of \$474,302 in ASSF payments. To conceal the kickbacks, I-R Italiana increased the payment due on each contract by 10% and created a fictitious line item on its purchase orders to justify the extra payment. I-R Italiana entered into two side letters with Iraq to pay the ASSFs, which were not disclosed to the U.N. In one of the side letters, I-R Italiana stated explicitly that the fictitious purchase order description used to conceal the kickback did not represent an actual performance obligation on I-R Italiana's part. In February 2002, I-R Italiana sponsored eight officials from the Iraqi Oil Ministry to spend two days touring a manufacturing facility in Italy. According to internal e-mail messages, the Iraqi officials spent two additional days "on holiday" touring Florence at the company's expense, and were also given \$8,000 in "pocket money."

Ingersoll-Rand's Irish subsidiary Thermo-King signed a side agreement with an Iraq Ministry to make an ASSF payment of \$53,919, which was not disclosed to the U.N. The contract failed to receive U.N. approval for unrelated reasons. Ingersoll-Rand's Belgian subsidiary I-R Benelux sold products to a Jordanian third party, which I-R Benelux knew would sell the equipment into Iraq at a 70% markup. I-R Benelux shipped the goods to Iraq and obtained all the necessary export control licenses. The third party, when questioned by the U.N. Independent Inquiry Committee, subsequently confirmed that it had made the ASSF payment.

Ingersoll-Rand knew or was reckless in not knowing that illicit payments were either offered or paid in connection with all of these transactions. Ingersoll-Rand failed to maintain an adequate system of internal controls to detect and prevent the payments. Ingersoll-Rand's accounting for these transactions failed properly to record the nature of the company's payments, and characterized some ASSFs as "sales deductions" or "other commissions".

Ingersoll-Rand, 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 \$1,710,034 in profits, plus \$560,953 in pre-judgment interest, and to pay a civil penalty of \$1,950,000. Ingersoll-Rand is also ordered to comply with certain undertakings regarding its FCPA compliance program. Ingersoll-Rand will also pay a \$2,500,000 fine pursuant to a deferred prosecution agreement with the U.S. Department of Justice, Fraud Section.

The Commission considered remedial acts promptly undertaken by Ingersoll-Rand and the cooperation the company afforded the Commission staff in its 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/lr20353.htm>

---

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

Modified: 10/31/2007