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U.S. Securities and Exchange Commission

U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 20094 / April 26, 2007

Accounting and Auditing Enforcement Release No. 2602 / April 26, 2007

SEC v. Baker Hughes Incorporated and Roy Fearnley, Civil Action No. H-07-1408, United States District Court for the Southern District of Texas (Houston Division) (EW) (Filed April 26, 2007)

SEC Charges Baker Hughes With Foreign Bribery and With Violating 2001 Commission Cease-and-Desist Order

Baker Hughes Subsidiary Pleads Guilty to Three Felony Charges in Criminal Action Filed by Department of Justice; Criminal Fines, Civil Penalties and Disgorgement of Illicit Profits Total More Than \$44 Million

On April 26, 2007, the Securities and Exchange Commission filed a settled enforcement action in the United States District Court for the Southern District of Texas charging Baker Hughes Incorporated, a Houston, Texas-based global provider of oil field products and services, with violations of the Foreign Corrupt Practices Act ("FCPA"). Baker Hughes has agreed to pay more than \$23 million in disgorgement and prejudgment interest for these violations and to pay a civil penalty of \$10 million for violating a 2001 Commission cease-and-desist Order prohibiting violations of the books and records and internal controls provisions of the FCPA. *In the Matter of Baker Hughes Incorporated*, Admin. Proc. No. 3-10572 (September 12, 2001). In the same complaint, the SEC also charged Roy Fearnley, a former business development manager for Baker Hughes, with violating and aiding and abetting violations of the FCPA. Fearnley has not reached any settlement with the Commission regarding these charges.

The SEC's complaint alleges that Baker Hughes paid approximately \$5.2 million to two agents while knowing that some or all of the money was intended to bribe government officials, specifically officials of State-owned companies, in Kazakhstan. The complaint alleges that one agent was hired in September 2000 on the understanding that KazakhOil, Kazakhstan's national oil company at that time, had demanded that the agent be hired to influence senior level employees of KazakhOil to approve the award of business to the company. Baker Hughes retained the agent principally at the urging of Fearnley. According to the complaint, Fearnley told his bosses that the "agent for KazakhOil" told him that unless the agent was retained, Baker Hughes could "say goodbye to this and future business." Baker Hughes engaged the agent and was awarded an oil services contract in the Karachaganak oil field in Kazakhstan that generated more than \$219 million in gross revenues from 2001 through 2006. Baker Hughes, the complaint

alleges, paid the agent \$4.1 million to its bank account in London but received no identifiable services from the agent. The complaint also alleges that in 1998 Baker Hughes retained a second agent in connection with the award of a large chemical contract with KazTransOil, the national oil transportation operator of Kazakhstan. Between 1998 and 1999, Baker Hughes paid over \$1 million to the agent's Swiss bank account, despite a company employee knowing by December 1998 that the agent's representative was a high-ranking executive of KazTransOil.

The SEC's complaint against Baker Hughes also alleges violations of the books and records and internal controls provisions of the FCPA in Nigeria, Angola, Indonesia, Russia, Uzbekistan and Kazakhstan. In addition to violating the FCPA, certain of this conduct occurred after September 12, 2001, and consequently violated the Commission's 2001 cease-and-desist Order. Specifically, the complaint alleges that between 1998 and 2005, Baker Hughes made payments in Nigeria, Angola, Indonesia, Russia, Uzbekistan and Kazakhstan in circumstances that reflected a failure to implement sufficient internal controls to determine whether the payments were for legitimate services, whether the payments would be shared with government officials, or whether these payments would be accurately recorded in Baker Hughes' books and records.

For example, the complaint alleges that

- from 1998 to 2004, Baker Hughes authorized commission payments of nearly \$5.3 million to an agent (who worked in Kazakhstan, Russia and Uzbekistan) under circumstances in which the company failed to determine whether such payments were, in part, to be funneled to government officials in violation of the FCPA;
- in Indonesia, between 2000 and 2003, Baker Hughes paid certain freight forwarders to import equipment into Indonesia using a "door-to-door" process under circumstances in which the company failed to adequately assure itself that such payments were not being passed on, in part, to Indonesian customs officials;
- in Nigeria, between at least 2001 and 2005, Baker Hughes authorized payments to certain customs brokers to facilitate the resolution of alleged customs deficiencies under circumstances in which the company failed to adequately assure itself that such payments were not being passed on, in part, to Nigerian customs officials; and
- in Angola, from 1998 to 2003, Baker Hughes paid an agent more than \$10.3 million in commissions under circumstances in which the company failed to adequately assure itself that such payments were not being passed on to employees of Sonangol, Angola's state-owned oil company, to obtain or retain business in Angola.

Without admitting or denying the allegations in the complaint, Baker Hughes has consented to the entry of a final judgment permanently enjoining it from future violations of Sections 30A, 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act"). Baker Hughes also has agreed to disgorge \$19,944,778, and to pay prejudgment interest thereon in the amount of \$3,133,237.41, and to pay \$10,000,000 as a civil penalty for the company's violations of the prior Commission cease-and-desist Order. Under the terms of the final judgment,

Baker Hughes will also retain an independent consultant to review the company's FCPA compliance and procedures.

The Commission also filed, in the same complaint, a contested action against Roy Fearnley, a former business development manager for Baker Hughes, seeking to permanently enjoin Fearnley from violating Sections 30A and 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder, and aiding and abetting Baker Hughes' violations of Sections 30A, 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act, and seeking disgorgement, prejudgment interest and civil penalties.

The Commission acknowledges Baker Hughes' cooperation in the investigation.

In a related criminal proceeding, the United States Department of Justice filed criminal FCPA charges against Baker Hughes and its wholly-owned subsidiary Baker Hughes Services International, Inc., with an office in Atyrau, Kazakhstan. Baker Hughes Services International, Inc. entered a guilty plea before the Honorable Gray H. Miller, United States District Judge for the Southern District of Texas, and agreed to plead guilty to one count of violating the anti-bribery provisions of the FCPA, one count of aiding and abetting the falsification of the books and records of Baker Hughes, and one count of conspiracy to violate the FCPA, and to pay a criminal fine of \$11 million. The Department of Justice has also entered into an agreement with Baker Hughes to defer prosecution for two years on charges of violating the anti-bribery and books and records provisions of the FCPA. Under the agreement, the company will retain for a period of three years a monitor to review and assess the company's compliance program and monitor its implementation of and compliance with new internal policies and procedures.

The staff acknowledges the cooperation and assistance of the U.S. Department of Justice, Fraud Section. The staff also acknowledges the help provided, in the form of mutual legal assistance, by the Isle of Man Financial Supervision Commission, HM Procureur (Attorney General) for Guernsey, and by the authorities of the United Kingdom and Switzerland.

▶ [SEC Complaint in this matter](#)

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Modified: 04/26/2007