

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Monday, October 24, 2016

Embraer Agrees to Pay More than \$107 Million to Resolve Foreign Corrupt Practices Act Charges

Parallel Resolutions with the Securities and Exchange Commission and Brazilian Authorities Equaling \$97 Million in Disgorgement Also Announced Today

Brazilian aircraft manufacturer Embraer S.A. (Embraer) entered into a resolution to resolve criminal charges and agreed to pay a penalty of more than \$107 million in connection with schemes involving the bribery of government officials in the Dominican Republic, Saudi Arabia and Mozambique, and to pay millions more in falsely recorded payments in India via a sham agency agreement.

Assistant Attorney General Leslie R. Caldwell of the Justice Department's Criminal Division and Assistant Special Agent in Charge William J. Maddalena of the FBI's Miami Field Office made the announcement.

"Embraer paid millions of dollars in bribes to win government aircraft contracts in three different continents," said Assistant Attorney General Caldwell. "But this prosecution shows that the Criminal Division will hold accountable those who treat corruption as a mere cost of doing business. Between U.S., Brazilian and Saudi authorities, bribe payers and bribe takers alike have been brought to justice for their wrongdoing."

"Embraer tried to bribe their way into several profitable aircraft contracts around the world," said Assistant Special Agent in Charge Maddalena. "Instead of reaping a nice profit, their criminal conduct earned the Brazilian aircraft manufacturer a substantial penalty that more than wiped out their gains from these contracts. Crime does not pay!"

According to the company's admissions, Embraer executives and employees paid bribes to government officials and falsified books and records in connection with aircraft sales to foreign governments and state-owned entities in multiple countries. In 2008, Embraer paid \$3.52 million to an influential government official in the Dominican Republic via a false agency agreement to secure a contract to sell the Dominican Air Force eight military aircraft for approximately \$92 million. In 2010, Embraer paid \$1.65 million to an official at a Saudi Arabian state-owned and -controlled company via a false agency agreement to secure that instrumentality's agreement to purchase three aircraft from Embraer for approximately \$93 million. In 2008, Embraer paid \$800,000 via a false agency agreement with an intermediary designated by a high-level official at Mozambique's state-owned commercial airline, Linhas Aéreas de Moçambique S.A. (LAM), to secure LAM's agreement to purchase two aircraft from Embraer for approximately \$65 million. In 2009, Embraer paid an agent \$5.76 million pursuant to a false agency agreement with a shell company in connection with a contract it secured to sell the Indian Air Force three aircraft for approximately \$208 million.

In total, Embraer earned profits of nearly \$84 million on the foregoing aircraft sales.

Embraer entered into a three-year deferred prosecution agreement (DPA) to resolve the case. As part of the DPA, Embraer admitted to its involvement in a conspiracy to violate the FCPA's anti-bribery and books and records provisions and to its willful failure to implement an adequate system of internal accounting controls. Embraer agreed to pay a criminal penalty of \$107,285,090; continue to cooperate with the department's investigation; enhance its compliance program; implement a more adequate system of internal accounting controls; and retain an independent corporate compliance monitor for a term of three years.

The Criminal Division's Fraud Section reached this resolution based on a number of factors, including the fact that Embraer did not voluntarily disclose the FCPA violations, but did cooperate with the department's investigation after the Securities and Exchange Commission (SEC) served it with a subpoena. After Embraer began cooperating, it did so fully and disclosed all relevant, non-privileged facts known to it, including about individuals involved in the misconduct. Embraer did not, however, engage in full remediation. It disciplined a number of company employees and executives engaged in the misconduct, but did not discipline a senior executive who was aware of bribery discussions in emails in 2004 and had oversight responsibility for the employees engaged in those discussions. As a result, the criminal penalty in this case is 20 percent below the bottom of the applicable range under the U.S. Sentencing Guidelines, a discount that reflects Embraer's full cooperation but incomplete remediation.

In related matters, Embraer reached settlements with both the SEC and Brazilian authorities. Embraer reached a settlement with the SEC, under which it agreed to pay \$83.8 million in disgorgement and \$14.4 million in prejudgment interest. The SEC has agreed to credit the disgorgement that Embraer pays to Brazilian authorities. Embraer also reached a settlement with Brazilian authorities under which it agreed to pay \$20 million in disgorgement. With the cooperation of U.S. authorities, Brazilian authorities have charged 11 individuals for their alleged involvement in Embraer's misconduct in the Dominican Republic. Saudi Arabian authorities have charged two individuals for their alleged involvement in Embraer's misconduct in Saudi Arabia.

The FBI's Miami Field Office investigated the case. Senior Trial Attorney Jason Linder and Trial Attorney John-Alex Romano of the Criminal Division's Fraud Section prosecuted the case.

The Fraud Section appreciates the cooperation and assistance provided by the SEC in this matter. Authorities in Brazil, the Dominican Republic and South Africa also provided assistance and cooperation. The Criminal Division's Office of International Affairs also provided assistance during the investigation.

The Criminal Division's Fraud Section is responsible for investigating and prosecuting all FCPA matters. Additional information about the department's FCPA enforcement efforts can be found at www.justice.gov/criminal/fraud/fcpa.

16-1240

[Criminal Division](#)

[Criminal Fraud](#)

[Download Embraer Deferred Prosecution Agreement](#)

[Download Embraer Information](#)

Updated October 24, 2016