

## JUSTICE NEWS

### Department of Justice

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## **LATAM Airlines Group Resolves Foreign Corrupt Practices Act Investigation and Agrees to Pay \$12.75 Million Criminal Penalty**

LATAM Airlines Group S.A. (LATAM), a commercial airline company based in Chile, has agreed to pay a \$12.75 million criminal penalty in connection with a scheme to pay bribes to Argentine union officials via a false consulting contract with a third-party intermediary in violation of the accounting provisions of the Foreign Corrupt Practices Act (FCPA).

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

According to admissions made in the resolution documents, executives at LATAM's predecessor-in-interest, LAN Airlines S.A. (LAN), executed a fictitious \$1.15 million consulting agreement with an advisor to the Secretary of Argentina's Ministry of Transportation in October 2006. Although the agreement purportedly required the consultant to undertake a study of Argentine airline routes, the consultant never provided any such services. Instead, the purported consultant funneled the monies he received pursuant to the contract to Argentine labor union officials in exchange for the union agreeing to accept lower wages and to not enforce what would have been a costly labor rule. In total, LAN profited by more than \$6.7 million as a result of the bribes paid to the union officials.

LATAM entered into a three-year deferred prosecution agreement (DPA) to resolve the case. As part of the DPA, LATAM agreed to pay a \$12.75 million criminal penalty, continue to cooperate with the department's investigation, enhance its compliance program and retain an independent corporate compliance monitor for a term of at least 27 months. The department reached this resolution based on a number of factors, including the fact that LATAM did not voluntarily disclose the FCPA violations, but did cooperate with the department's investigation after the press in Argentina uncovered and reported the conduct approximately four years after it had occurred. After LATAM began cooperating, it did so fully and provided all relevant facts known to it, including about individuals involved in the misconduct. LATAM did not, however, remediate adequately. LATAM failed to discipline in any way the employees responsible for the criminal conduct, including at least one high-level company executive, and thus the ability of the compliance program to be effective in practice is compromised. As a result, the company paid a penalty within the U.S. Sentencing Guidelines range instead of receiving a discount off the bottom of the range.

In a related matter, LATAM reached a settlement today with the U.S. Securities and Exchange Commission (SEC) under which it agreed to pay \$6.74 million in disgorgement and \$2.7 million in prejudgment interest. Thus, the approximately \$22.2 million in combined penalty, disgorgement and prejudgment interest far exceeds the \$6.7 million in savings the company had received from its improper payments.

The FBI's Miami Field Office investigated the case. Senior Trial Attorney Jason Linder of the Criminal Division's Fraud Section prosecuted the case. The SEC also provided assistance during the investigation.

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