



U.S. Securities and Exchange Commission

U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 20251 / August 23, 2007

SEC v. Textron Inc., Civil Action No. 07 CV 01505 (D.D.C.) (CKK)

SEC Files Settled Books and Records and Internal Controls Charges Against Textron Inc. For Improper Payments to Iraq Under the U.N. Oil for Food Program — Company Agrees to Pay Over \$3.5 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 Textron Inc., a Rhode Island-based industrial equipment company, in the U.S. District Court for the District of Columbia. The Commission's complaint alleges that from approximately 2001 through 2003, two of Textron's David Brown French subsidiaries authorized and made approximately \$650,539 in kickback payments in connection with its sale of humanitarian goods to Iraq under the U.N. Oil for Food Program. The kickbacks were made in the form of "after-sales service fees," however no bona fide services were actually rendered. The Program was intended to provide humanitarian relief for the Iraqi population, which faced severe hardship under international trade sanctions. Iraq was allowed to purchase humanitarian goods through a U.N. escrow account. However, according to the complaint, the kickbacks paid by Textron's subsidiaries bypassed the escrow account and were instead paid by third parties to Iraqi-controlled accounts. The contracts submitted to the U.N. did not disclose that the cost of the illicit payments were included in the inflated contract price. The Complaint also alleges that Textron's subsidiaries made illicit payments of \$114,995 to secure thirty-six contracts in the United Arab Emirates, Bangladesh, Indonesia, Egypt, and India from 2001 to 2005.

According to the Commission's Complaint:

Textron subsidiaries David Brown Guinard Pumps S.A.S. and David Brown Transmissions France S.A. made \$1,936,926 in profits on Oil for Food contracts that involved illicit after-sales service fees ("ASSF"). DB Guinard Pumps obtained three Oil for Food contracts that were inflated by ten percent to cover the cost of secret ASSFs that it had agreed to make in undisclosed side letters with Iraq. Management approved ASSFs of approximately \$83,000 to be funneled to Iraq through a Lebanese consultant. When the goods were held up at the Iraqi border on one contract, the Lebanese consultant provided DB Guinard Pumps with bank records showing that the ASSF payment was made on the company's behalf into a Lebanese bank account in the name of an Iraqi individual for the benefit of the Iraqi ministry. DB Transmissions France obtained ten Oil for Food contracts that were also inflated by ten percent to cover the cost of secret ASSFs. DB Transmissions France's Export Sales Manager noted in an internal memorandum that DB Transmissions France wishes "to avoid any written agreement [concerning the ASSF] with client side" and "[i]f written document cannot be avoided, this must remain highly confidential." He also noted that he discussed this issue with French management and received approval from his superiors to include the amount of the ASSF in the

inflated contract price submitted to the U.N. Management approved ASSF payments of approximately \$567,000 to be funneled to Iraq through a Jordanian consultant.

Textron's David Brown subsidiaries entered into thirty-six contracts involving illicit payments totaling \$114,995.20 in countries other than Iraq. The payments were similar to the ASSF payments made on Oil for Food contracts because no bona fide services were performed and the payments were made to secure contracts. In the United Arab Emirates, subsidiaries paid \$20,429 to employees of two government-owned gas companies, GASCO and ZADCO. \$16,342 was paid to two "friends" employed by a Bangladesh government-owned fertilizer company. In Indonesia, a company representative was paid \$149,000 of a \$321,171 contract (more than half the contract value) to perform after-sales services. Of the \$149,000 paid to the representative, \$10,000 went to a procurement official of a government-owned company, Pertamina, to sponsor a golf tournament with very little documentation to show what the representative actually did with the remainder. Finally, \$13,354 was paid to a government customer in Egypt, and \$51,870 was paid to a non-government customer in India to secure business.

Textron knew or was reckless in not knowing that illicit payments were paid in connection with all of these transactions. Textron failed to maintain an adequate system of internal controls to detect and prevent the payments. Textron's French subsidiaries both failed to enter into signed agreements with their consultants despite Textron's requirements that they do so, and management of the subsidiaries failed to report known transgressions to higher level managers. Further, although Textron knew of endemic corruption problems in the Middle East, it appeared to take on faith, without adequate confirming steps, that its managers and employees were exercising their duties to manage and comply with compliance issues. Textron's accounting for its Oil for Food transactions failed properly to record the nature of the company's payments. In twelve transactions, a portion of the subsidiaries' sale price for goods to Iraq constituted ASSFs, which were characterized on the books and records as commissions. The illicit payments made in non-Iraq countries were also incorrectly characterized as commissions and consultation fees.

Textron, 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 \$2,284,579 in profits, plus \$450,461.68 in pre-judgment interest, and to pay a civil penalty of \$800,000. Textron is also ordered to comply with certain undertakings regarding its Foreign Corrupt Practices Act compliance program. Textron will also pay a \$1,150,000 fine pursuant to a non-prosecution agreement with the U.S. Department of Justice, Fraud Section.

The Commission considered remedial acts promptly undertaken by Textron, 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/lr20251.htm>
