

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Civil Action No. _____

INSTITUTO MEXICANO DEL SEGURO
SOCIAL,

Plaintiff,

v.

TEVA PHARMACEUTICAL INDUSTRIES
LTD.,

Defendant.

IMSS' ORIGINAL COMPLAINT

The Instituto Mexicano del Seguro Social ("IMSS") complains of Teva Pharmaceutical Industries Ltd. ("Teva") as follows:

NATURE OF THE CASE

1. For years, Teva used bribery as an integral part of its world-wide marketing strategy.
2. Teva's illegal conduct is well established. On December 22, 2016, Teva resolved parallel criminal and civil actions by the Department of Justice and the Securities and Exchange Commission. As part of the resolutions of those proceedings, Teva confessed to organized bribery in Russia, the Ukraine, and Mexico. Per the two agreements, Teva paid a fine of \$283 million and disgorged \$236 million in illicit profits garnered by its illegal conduct, for a total of \$519 million.

3. Teva's bribery was not limited to foreign nations. In 2014, Teva agreed to pay \$27.6 million to the US federal government and to the state of Illinois to resolve claims that Teva paid illegal kickbacks to doctors in the United States to increase sales. Then, earlier this year, Teva agreed to pay another \$54 million to the US government to resolve similar claims.

4. In Mexico, Teva paid bribes to IMSS doctors practicing in IMSS hospitals. In 2011 and 2012, alone, Teva admits to garnering about \$18,556,000 (including interest) in illicit profits from its Mexico bribery scheme. Teva's bribery, however, began in 2005, and Teva indirectly made far more in illicit profits than the \$18.6 million Teva concedes. In fact, if IMSS had known of the illegal bribery, it could not have made any purchases from Teva from 2005 through the present.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 (a)(4) because this action is between a foreign state pursuant to the Foreign Sovereign Immunities Act (the FSIA) and a citizen of the United States and the amount in controversy exceeds \$75,000 exclusive of costs and fees.

6. This Court has venue pursuant to 28 U.S.C. § 1391(2) because a substantial part of the events and omissions giving rise to the claims presented herein occurred in this District.

PARTIES

7. IMSS is the Mexican Social Security Institute, a decentralized agency of the United Mexican States. IMSS is therefore a "foreign state" pursuant to the FSIA, and its officials are covered by the Foreign Corrupt Practices Act.

8. Teva is headquartered in Petah Tikva, Israel. At all relevant times, Teva controlled its Latin American operations, including its operations in Mexico, from its offices in Miami and receives or produces substantial income through its operations in this district, and operates an office in this district.

9. Teva can be served by service on an officer at Teva's United States headquarters, Parsippany-Troy Hills New Jersey or Miami Florida. Teva Pharmaceuticals USA is the North American arm of Teva Pharmaceuticals Industries Ltd., a global pharmaceutical company headquartered in Israel. The company has a global product portfolio of more than 1,800 molecules and a direct presence in 60 countries, including 30 locations across the U.S. and its territories.

FACTUAL BACKGROUND

The Parties' Business Relationship

10. IMSS is the main social-service agency of the Mexican government. IMSS was created in 1943 by order of the Mexican President, who continues to nominate IMSS' General Director.

11. IMSS provides health care services to tens of millions of Mexican citizens at hospitals that IMSS owns and operates throughout Mexico. The Mexican government funds IMSS with tax revenues and compulsory contributions. IMSS also manages the purchases of medical supplies for other Mexican governmental agencies, including the Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (ISSSTE), Petroleos Mexicanos (Pemex), and the Mexican military.

12. IMSS is the appropriate agency to bring the claims presented herein.

13. Teva is a multinational pharmaceutical corporation that specializes in generic drugs that Teva distributes worldwide.

14. Teva's distribution in Mexico is orchestrated out of Teva's Miami office. Teva utilized a number of wholly-owned subsidiaries to sell its products in Mexico, including Sicor de Mexico, S.A., Lemery S.A. de C.V., Lemery Desarrollo y Control S.A. de C.V., Inmobiliaria Lemery S.A. de C.V., Vitrium Division Farmaceutica, S.A. de C.V., Teva Pharmaceutical Mexico S.A. de C.V., and Ivax Pharmaceuticals Mexico, S.A. de C.V. (together, "Teva Mexico"). Teva Mexico's financial statements are consolidated into the financial statements of Teva at the parent level. Teva controls Teva Mexico from its offices in Miami.

Teva's International Bribery Scheme

15. For years, Teva used bribes to sell its products to governmental agents throughout the world, including within the United States and within Mexico.

16. Teva's international bribery strategy has been established in various actions brought by the Department of Justice and the Securities and Exchange Commission.

17. Teva cannot deny its responsibility under United States law for its international conduct. Per Teva's deferred prosecution agreement with the DOJ, Teva stated that it, "admits, accepts, and acknowledges that it is responsible under United States law for the acts of its former officers, directors, employees, and agents as charged" in the government's criminal information and as set forth in an attached Statement of Facts. In the same agreement, Teva agreed that it would not "make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility" for its international bribery scheme.

18. Teva also consented to entry of a final judgment in the related SEC action and is therefore bound by the factual statements in the SEC's action, including that Teva paid bribes to Mexican government officials and obtained millions in illicit profits as a result.

Teva's Conduct in Mexico

19. Teva concedes that, in 2011 and 2012, alone, Teva garnered approximately \$18,556,000 in illicit profits from illegal payments Teva and its agents made to IMSS doctors and officials. Teva's actual illicit profits were much greater.

20. In fact, Teva's Mexican agents had begun to bribe Mexican government officials since at least 2005.

21. Teva's Latin American Division, headquartered in Miami, became aware no later than 2007 that its Mexican agents were illegally bribing Mexican government officials. For example, in 2007, Teva in Miami learned that one of Teva Mexico's managers routinely entertained Mexican government officials at a Cancun hotel to increase sales of Teva drugs in Mexico.

22. In addition, in February 2007, a Teva internal auditor received an anonymous letter stating that Teva Mexico was making illicit payments to government officials to increase sales. In response, Teva initiated an internal investigation, which was completed in 2008. Teva's investigation uncovered credible evidence of illegal payments by Teva Mexico to government officials in Mexico to influence regulatory and formulary approvals, drug purchase decisions, and prescription decisions.

23. Following completion of its internal corruption investigation, Teva terminated eleven employees of Teva Mexico, but Teva never stopped the illegal conduct or enforced Teva's anti-bribery policy within Mexico.

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