

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 78113 / June 21, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3784 / June 21, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17305

In the Matter of

**ANALOGIC
CORPORATION and
LARS FROST,**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Analogic Corporation (“Analogic”) and Lars Frost (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondent Analogic has submitted an Offer of Settlement which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent Analogic admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

In anticipation of the institution of these proceedings, Respondent Lars Frost has also submitted an Offer of Settlement which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these

proceedings, which are admitted, and except as provided herein in Section V, Respondent Lars Frost consents to the entry of this Order, as set forth below.

III.

On the basis of this Order and Respondents' Offers of Settlement, the Commission finds¹ that:

Summary

1. This matter concerns violations of the books and records and internal accounting controls provisions of the Foreign Corrupt Practices Act ("FCPA") by Analogic, a medical device manufacturer headquartered in Peabody, Massachusetts, and by Lars Frost, a citizen and resident of Denmark and the former Chief Financial Officer of Analogic's wholly-owned Danish subsidiary, BK Medical ApS ("BK Medical"), which sells ultrasound equipment.²

2. From at least 2001 through early 2011, BK Medical participated in hundreds of highly suspicious transactions at its distributors' direction which posed a significant risk of bribery or other improper conduct. The suspicious transactions involved BK Medical's distributor in Russia, as well as, to a lesser extent, its distributors in Ghana, Israel, Kazakhstan, Ukraine, and Vietnam. The transactions routinely involved fictitious invoices issued by BK Medical at inflated prices, overpayments to BK Medical from the distributors against the inflated invoices, and subsequent payments by BK Medical out of the distributors' excess funds to unknown third parties all over the world for unknown reasons. In short, for at least nine years, BK Medical acted as a conduit for its distributors to funnel money to parties, and for reasons, unknown to BK Medical. Approximately \$20 million flowed through BK Medical from these distributors, with over \$16 million from BK Medical's Russian distributor.

3. BK Medical and, by extension, Analogic derived millions in profits from its sales to the distributors that directed these suspicious transactions. BK Medical's participation in the transactions resulted in Analogic failing to maintain accurate books and records. Analogic also failed to devise and maintain an adequate system of internal accounting controls sufficient to prevent and detect this improper conduct that occurred over nearly a decade.

4. Respondent Lars Frost, who was BK Medical's Chief Financial Officer from 2008 to 2011, personally authorized approximately 150 conduit payments to unknown third parties during his tenure at BK Medical despite knowing that the payments violated BK Medical's internal accounting controls. Frost also submitted numerous false quarterly sub-certifications to Analogic. As a result of his conduct, Frost was a cause of Analogic's violations described herein.

¹ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

² Lars Frost is not related to Analogic's current Chief Financial Officer, who shares the same last name.

Respondents

5. **Analogic Corporation** is a Massachusetts corporation that designs and manufactures advanced medical imaging, ultrasound, and security technology systems. Its corporate headquarters is in Peabody, Massachusetts and its common stock is registered pursuant to Section 12(b) of the Exchange Act and traded on the NASDAQ under the symbol “ALOG.” Among others, Analogic has a wholly-owned subsidiary in Denmark named BK Medical ApS, which focuses on the manufacture and sale of ultrasound systems. Analogic acquired BK Medical in 1996 and BK Medical’s financial results are wholly incorporated into Analogic’s.

6. **Lars Frost**, age 50, is a resident and citizen of Denmark. From approximately October 2008 through September 2011, Frost was the Chief Financial Officer of BK Medical. In this role, he reported to Analogic’s corporate controller and chief accounting officer in the United States.

Facts

7. Analogic’s ultrasound business is primarily pursued by BK Medical, which sells ultrasound products to end users – e.g., clinical practitioners – throughout the world. During the relevant period, BK Medical sold ultrasound products (i) directly to end users through BK Medical’s direct sales force, and (ii) indirectly to end users through distributors. The transactions detailed below took place in connection with BK Medical’s sales to distributors, which sold BK Medical’s ultrasound systems to government-owned hospitals, among other end users.

A. BK Medical’s Participation in Improper Payment Arrangements

8. From at least December 2001 through early 2011, BK Medical participated in an improper payment arrangement scheme with its principal distributor selling BK Medical’s ultrasound products in Russia. The Russian distributor, located in Moscow, was BK Medical’s largest distributor by revenue. The arrangement was employed in connection with the majority of BK Medical’s sales to the Russian distributor during the relevant period and generally involved three steps, each of which the Russian distributor directed.

9. The first step involved the creation of one or more fictitious documents reflecting an inflated purchase price for the product or products BK Medical was selling to the Russian distributor.

- a. After BK Medical and the Russian distributor reached agreement on the terms of a particular sale, the Russian distributor would request that BK Medical create a fictitious, second invoice at an inflated price. The Russian distributor would send BK Medical a template invoice with the inflated price, which was regularly well in excess of 100% of the original, agreed-upon price. BK Medical’s distributor sales staff understood the inflated price to reflect the price the ultimate end user would pay to the distributor.

- b. BK Medical's customer service staff would cut and paste BK Medical's logo onto the template invoice and complete other pertinent fields, such as an invoice number. These steps were taken outside BK Medical's standard invoice-generation system, in violation of BK Medical's internal accounting controls. The fictitious, second invoice would subsequently accompany the ultrasound products when they were shipped to Russia. An invoice prepared by BK Medical's standard invoice-generation system reflecting the agreed-upon, actual price would also be sent to the Russian distributor, often electronically.
- c. Separately, the Russian distributor also often sent BK Medical a purported contract for the sale that listed the higher, inflated price. One of BK Medical's distributor sales staff – often an administrative assistant – would execute the contract on behalf of BK Medical. BK Medical maintained copies of certain of the fictitious contracts and fictitious, second invoices.

10. Next, rather than pay the agreed-upon, actual price for the products, the Russian distributor would pay BK Medical at the inflated price via wire payment. BK Medical recorded only the agreed-upon, actual price as revenue and credited the excess amount to its accounts receivable account for the Russian distributor. At times, this resulted in BK Medical's accounts receivable balance for the Russian distributor to be in a net credit position – in other words, BK Medical effectively owed the Russian distributor money, rather than vice versa.

11. Then, at some point weeks or months later, the Russian distributor would direct BK Medical to make a wire payment out of the excess funds to a third party that was otherwise unknown to BK Medical. BK Medical complied with the directives, despite not knowing the purpose of the payments or the nature of the payees.

- a. The directive often came in the form of an email or fax, with only the payee's wire information and the amount. The payees ranged from apparent shell corporations located in places such as Belize, the British Virgin Islands, Cyprus, and Seychelles, to specific individuals in Russia. At times, a fictitious invoice for marketing, logistics, or other services ostensibly rendered to BK Medical by the payee would accompany the directive from the Russian distributor. These invoices were not entered into BK Medical's accounts payable system, as BK Medical's internal accounting controls required.
- b. Two approvals were generally required before BK Medical made the payments. First, an individual in BK Medical's distributor sales staff would approve the payment. Next, an individual in BK Medical's finance staff would review and approve the wire transfer. The payee banks to which the payments were sent were located all over the world, although approximately half of the payments went to banks in Latvia, on Russia's border.
- c. The payments were not made through BK Medical's accounts payable system, as was required by BK Medical's internal accounting controls. Instead, BK Medical

simply credited its cash account and made an offsetting debit to its accounts receivable account for the Russian distributor. In those instances where the Russian distributor had provided a fictitious invoice from the payee, the authorizing signatures would be applied directly on the fictitious invoice, which would subsequently be kept in BK Medical's files.

- d. For the majority of the payments to third parties, the payment amount was less than the sum of the amounts the Russian distributor had previously overpaid BK Medical and that remained as excess funds in BK Medical's accounts receivable account for the Russian distributor. On at least two occasions, however, payments to third parties were made before sufficient overpayment funds had been paid to BK Medical. In those two cases, BK Medical made approximately \$95,000 in total payments to unknown third parties, for unknown reasons, before receiving the funds from the Russian distributor.

12. In total, during at least the period December 2001 to early 2011, BK Medical served as a conduit for at least 180 of these payments to third parties pursuant to this arrangement with its Russian distributor, totaling approximately \$16.1 million. Over this period, BK Medical, and by extension Analogic, recorded approximately \$21.6 million in revenue on its sales to its Russian distributor.

13. During this same period, BK Medical participated in similar arrangements, but to a lesser degree, with its distributors in Ghana, Israel, Kazakhstan, Ukraine, and Vietnam. The arrangements broadly followed the same structure, though the degree to which fictitious documents were created varied by distributor. Over this period, BK Medical served as a conduit for at least 80 payments to third parties pursuant to arrangements with these other distributors, totaling approximately \$3.8 million.

14. BK Medical's participation in these payment arrangements with its distributors created a significant risk that BK Medical was facilitating bribery or other prohibited conduct, such as embezzlement or tax evasion.

B. Identification of Bribery Risks Associated with Distributors

15. In or around 2004, BK Medical's Vice President of Sales for distributors asked his principal contact at the Russian distributor about the purpose of the payments to third parties and later memorialized his understanding in the form of a ghostwritten email from the contact to himself. The email stated, among other things, that the payments were necessary due to "Russian market conditions"; that "the level of official salaries in many sectors are still extremely low"; that the payments are for, among other things, "general improvements of the standard of living of ... persons on high levels"; and that "[i]f you cannot continue to help us with the money transfers, we will risk up to 90% of our B-K business." The email then stated: "Please understand that your western word 'bribe' is not used in our Russian market. We talk about customer obligations, nothing else" Notwithstanding these red flags, the payments to unknown third parties continued for six more years.

16. In 2008, a Senior Vice President at Analogic concluded that BK Medical presented a “significantly greater risk” of violating the FCPA than Analogic’s other business lines, because BK Medical’s products “go in completed form to . . . hospitals, many of which are government owned.” In addition to recommending that BK Medical implement a FCPA training program, the Senior Vice President recommended in an email to Analogic’s senior management that BK Medical put in place an “official process for validating that their distribution partners do not, or are not likely to engage in prohibited behavior.” Analogic then provided a business ethics and FCPA compliance training to BK Medical sales and finance staff, but no official process was implemented, and no steps were taken to validate whether its Russian distributor or any other distributor was engaged in prohibited behavior.

C. Analogic Failed to Make and Keep Accurate Books and Records and Maintain an Adequate Internal Accounting Control System

17. BK Medical’s participation in the transactions involved the routine creation and/or ratification of several types of fictitious documents, which BK Medical maintained in its books and records and, in some cases, used to support payments made to third parties. These documents included fictitious BK Medical invoices, contracts, and invoices from third parties for services never rendered to BK Medical. Moreover, BK Medical made and recorded hundreds of transactions in its books and records for which BK Medical did not know the business purpose and therefore was unable to account for accurately. These recorded transactions, and the fictitious documents upon which they were predicated, were incorporated into Analogic’s books and records, which were rendered inaccurate as a result.

18. Analogic’s internal accounting controls system was also deficient. BK Medical was able to process hundreds of sham, conduit transactions involving millions of dollars in payments outside the company’s accounting systems for nearly ten years.

D. Lars Frost’s Role in Analogic’s Inaccurate Books and Records and Internal Accounting Controls Failures

19. Frost joined BK Medical’s finance department in 1999 and was promoted ultimately to BK Medical’s Chief Financial Officer position in approximately October 2008, which position he held until Analogic caused BK Medical to terminate his employment in September 2011. In the CFO role, Frost was BK Medical’s chief accounting officer, was responsible for ensuring BK Medical’s compliance with its internal accounting controls, and reported directly to Analogic’s corporate controller and chief accounting officer in the United States.

20. During his tenure at BK Medical, Frost approved approximately 150 payments outside of BK Medical’s accounts payable system to unknown third parties, approximately 10 of which were while he was the BK Medical CFO. At times, he authorized the payments by applying his initials to fictitious invoices from third parties for services never rendered to BK Medical. BK Medical had regularly participated in these transactions before Frost became CFO of BK Medical and he took no steps to stop them after he became CFO.

21. Frost authorized payments to unknown third parties outside the accounts payable system knowing that doing so was inconsistent with – and circumvented – the internal accounting controls in place at BK Medical, which required all payments to be processed through accounts payable. Further, both before and after he became BK Medical’s CFO, Frost executed internal sub-certifications for Analogic on a quarterly basis certifying BK Medical’s compliance with its accounts payable controls, among other internal accounting controls, notwithstanding knowledge that the payments violated those controls. As BK Medical’s CFO, Frost also signed quarterly financial-statement sub-certifications for Analogic, certifying that all material financial transactions at BK Medical had been properly recorded, notwithstanding that Frost did not know the business purpose of the payments to third parties. Both of these sets of sub-certifications were incorporated into Analogic’s books and records. Frost was also aware of the fictitious contracts that BK Medical’s Russian distributor requested BK Medical execute. Finally, Frost also completed quarterly checklists for Analogic’s controller, the purpose of which was to identify unusual transactions and changes in the status of internal controls, among other matters. Frost failed to disclose the payment arrangements in connection with these checklists or in related discussions with Analogic’s controller. These incomplete checklists were also incorporated into Analogic’s books and records.

Violations of the Recordkeeping and Internal Accounting Controls Provisions of the FCPA

22. As a result of the conduct described above, Analogic violated Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

23. As a result of the conduct described above, Analogic also violated Section 13(b)(2)(B) of the Exchange Act, which requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are executed in accordance with management’s general or specific authorization.

24. As a result of his conduct described above, Lars Frost was a cause of Analogic’s violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

25. As a result of his conduct described above, Lars Frost also violated Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder, which prohibit persons from knowingly circumventing or knowingly failing to implement a system of internal accounting controls, knowingly falsifying any book, record or account, and directly or indirectly falsifying or causing to be falsified any book, record, or account.

Analogic’s Self-Report, Cooperation, and Remedial Efforts

26. Upon discovering the payment arrangements at BK Medical, Analogic halted the transactions, conducted an internal investigation, and subsequently self-reported its findings, including an accounting of all of the suspicious payments to third parties by distributor and

recipient. Analogic thereafter generally cooperated with the Commission staff's investigation. Analogic further took a number of remedial efforts, including (1) terminating BK Medical's relationship with eight distributors; (2) improving BK Medical's distributor due diligence and distributor agreements; (3) terminating a number of BK Medical employees (including Lars Frost and the Vice President of Sales for distributors) and disciplining other BK Medical employees involved in the transactions; (4) enhancing Analogic's general oversight of BK Medical and hiring a corporate compliance officer; (5) remediating and improving BK Medical's internal accounting controls; and (6) requiring additional and ongoing compliance training for BK Medical and Analogic employees.

27. In determining to accept Analogic's Offer, the Commission considered Analogic's self-report, cooperation, and remedial acts.

Non-Prosecution Agreement

28. BK Medical has entered into a non-prosecution agreement with the United States Department of Justice that acknowledges responsibility for conduct relating to certain of the findings in this Order.

29. Respondent Analogic acknowledges that the Commission is not imposing a civil penalty based in part upon BK Medical's payment of a \$3,402,000 criminal fine as part of BK Medical's settlement with the United States Department of Justice.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Analogic cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

B. Pursuant to Section 21C of the Exchange Act, Respondent Lars Frost cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder.

C. Respondent Analogic shall, within 14 days of the entry of this Order, pay disgorgement of \$7,672,651 and prejudgment interest of \$3,810,311 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

D. Respondent Lars Frost shall pay a civil money penalty of \$20,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: \$5,000 within 14 days of entry of this Order; \$2,500 within 120 days of entry of this Order; \$5,000 within 240 days of entry of this Order; and \$7,500 within 360 days of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of the civil money penalty, plus any additional interest accrued pursuant to pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Analogic or Lars Frost as a Respondent in these proceedings, as appropriate, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul G. Block, Assistant Director, Division of Enforcement, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, Boston, MA 02110.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent Lars Frost agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent Lars Frost agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action"

means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent Lars Frost, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Lars Frost under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Lars Frost of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary