

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79702 / December 29, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3840 / December 29, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17754

In the Matter of

**GENERAL CABLE
CORPORATION,**

Respondent.

**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 General Cable Corporation (“GCC” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) 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, Respondent admits the 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.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that

Summary

1. This matter concerns improper inventory accounting and disclosure violations by GCC, a global manufacturer of copper, aluminum, and fiber optic wire and cable products based in Highland Heights, Kentucky.

2. From 2008 to the second quarter of 2012, GCC materially misstated its financial statements due to improper inventory accounting at its Brazil subsidiary that went undetected due to the company's internal accounting controls failures. During this period, certain Brazilian accounting employees manipulated the company's accounting systems, which GCC executives knew were highly manual and presented financial reporting risks, by entering false entries for inventory values to cover up missing copper inventory from the subsidiary's manufacturing plants. When the improper accounting was reported to GCC's then-Rest of World ("ROW") segment Chief Executive Officer and Chief Financial Officer in January 2012, they actively concealed the inventory overstatement from GCC's executive management. Instead, the ROW CEO and ROW CFO overrode internal accounting controls and issued or passed on directives to employees to destroy documents about the missing inventory, signed false sub-certifications of financial statements, and failed to take corrective action to ensure that the accounting errors did not continue.

3. In October 2012, GCC announced that it had identified these inventory accounting issues, and in March 2013, GCC restated its financial statements from 2008 to the second quarter of 2012. During this period, the missing inventory in Brazil caused GCC to materially overstate its inventory by \$46.7 million and overstate its net income available to common shareholders by 21.6%, 11.3%, and 29.8% for the annual periods ended December 31, 2011, 2010, and 2009, and 8.8% and 13.8% for the quarterly periods ended June 30 and March 31, 2012, respectively.

Respondent

4. GCC is a publicly traded company headquartered in Highland Heights, Kentucky. GCC is a global manufacturer of copper, aluminum, and fiber optic wire and cable products. During the relevant period, GCC maintained operations in three segments, North America, Europe & Mediterranean ("E&M," now known as the Europe segment), and ROW (split into the Latin America and Asia Pacific segments in 2014). GCC's common stock is registered with the Commission under Section 12(b) of the Exchange Act, and GCC files annual and quarterly reports under Section 13(a) of the Exchange Act and related rules. GCC's common stock trades on the New York Stock Exchange under the ticker symbol "BGC."

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in these or any other proceedings.

Relevant Entities

5. **General Cable Brasil Indústria e Comércio de Condutores Elétricos Ltda.** (current name of Phelps Dodge Brasil Ltda., acquired in 2007), and **General Cable do Brasil Ltda. (“GC Brasil”)** are indirect subsidiaries of GCC in its ROW (from 2007 to 2014) and Latin America (from 2014 to present) segments, and manufacture and sell GCC’s products for its domestic market. In this Order GCC’s Brazil operations through these two subsidiaries are referred to collectively as **“GCC Brazil.”**

Facts

GCC Brazil’s Improper Inventory Accounting

6. In October 2007, following the acquisition of Phelps Dodge International Corp. (“PDIC”), GCC created the ROW reporting segment, with ROW’s management based in Doral, Florida. GCC Brazil, as part of ROW’s Latin America operations, was one of the largest and most significant operations that were reported in ROW’s financial statements. During the relevant period, GCC Brazil maintained two manufacturing facilities, Serra and Poços de Caldas (“Poços”).

7. From at least 2008 to mid-2012, GCC Brazil materially understated cost of sales and overstated copper inventory balances on its books and records, which were consolidated into GCC’s financial statements. The inventory overstatement, leading to material financial reporting errors, was due to both missing inventory and accounting errors within GCC Brazil’s enterprise resource planning (“ERP”) system and its implementation. In covering up the missing inventory, certain cost accounting personnel, who controlled entries into GCC Brazil’s general ledger as well as controlled the accounting for inventory, manipulated the ERP system to reflect inventory that did not exist.

8. After conducting an internal investigation, GCC determined that the inventory accounting errors at GCC Brazil were material and would require a restatement of certain of its previously issued financial statements. For the years ended December 31, 2011, 2010, 2009, and 2008, and for the three months ended March 30, 2012 and six months ended June 29, 2012, cost of sales was understated by \$17.9 million, \$8.3 million, \$5.6 million, \$7.1 million, \$2.7 million and \$6.2 million, respectively. As of December 31, 2011, 2010, 2009 and 2008, March 30, 2012 and June 29, 2012 inventory balances were overstated by \$40.0 million, \$27.0 million, \$17.4 million, \$8.7 million, \$43.7 million, and \$43.5 million, respectively. In addition, due to accounting errors at one of the Brazilian facilities that occurred before GCC’s acquisition of PDIC in 2007, GCC also overstated inventory in its allocation of the purchase price among assets acquired, resulting in an understatement of goodwill. The understated goodwill and overstated inventory associated with the acquisition of PDIC in the fourth quarter of 2007 was \$3.4 million.

9. The inventory accounting errors at GCC Brazil caused GCC to overstate its net income available to common shareholders by 21.6%, 11.3%, and 29.8% for the annual periods ended December 31, 2011, 2010, and 2009, and 8.8% and 13.8% for the quarterly periods ended June 30 and March 31, 2012, respectively.

10. GCC Brazil's improper inventory accounting went undetected by GCC for several years because its inventory accounting systems were highly manual and decentralized, and lacked adequate controls. As a result, the lapses in the systems were exploited by certain GCC Brazil cost accounting personnel. Although GCC Brazil's inventory accounting systems were centralized in its ERP system, its cost accounting personnel were able to falsify GCC Brazil's general ledger by manually calculating inventory values in a spreadsheet module and then feeding those values into the general ledger. The general ledger, therefore, contained falsely overstated inventory values. Those values were not reconciled with GCC Brazil's actual inventory (*e.g.*, reels of raw copper metal and finished goods). These actions enabled the cost accounting personnel to make improper entries in the general ledger without appropriate review by GCC Brazil's management. The false entries were designed to conceal accounting errors and missing inventory, resulting in overstated inventory balances on the general ledger.

11. The lack of segregation of responsibilities for making and approving manual journal entries further enabled the manipulation to occur and go undetected. Although GCC executive management was unaware that inventory accounting for Brazil was overstated during the relevant period, it was aware that the ERP system, which was widely used by several countries within ROW, was highly manual, unevenly implemented throughout ROW, and was not subject to centralized oversight, creating financial reporting risks.

12. In late 2011, while completing newly required tax documentation for local regulators, GCC Brazil's Controller ("Brazil Controller") discovered significant inconsistencies between GCC Brazil's general ledger and supporting documentation for intercompany sales. The Brazil Controller, in consultation with GCC Brazil's CFO ("Brazil CFO"), reviewed intercompany sales in 2011 and concluded in December 2011 that GCC Brazil's inventory was overstated and suspected it was due to accounting errors and an inventory theft involving the primary Brazil cost accountant.

13. A number of deficient internal accounting and risk management controls prevented GCC Brazil from detecting this scheme for years: (a) physical controls at Serra to account for or protect inventory were inadequate; (b) access to IT systems in GCC Brazil was not effectively controlled; (c) GCC Brazil failed to properly reconcile inventory values to the general ledger balance; and (d) GCC Brazil lacked proper segregation of duties as cost accounting personnel manually made entries to the inventory sub-ledger without further review or verification by other personnel.

ROW Executives Override Controls and Concealed the Inventory Errors

14. From at least January 26, 2012 to September 28, 2012, ROW's CEO and CFO overrode controls and concealed these issues from GCC's executive management, and internal and external auditors, and instructed others at GCC Brazil to do the same, despite evidence that the magnitude of the potential accounting errors was increasing. As a result of their concealment, GCC filed its Form 10-K for the fiscal year ended December 31, 2011, and Forms 10-Q for the fiscal quarters ended March 31, 2012, and June 29, 2012, that included materially false financial information.

15. On a video conference call in late January 2012, the Brazil CFO and Brazil Controller (collectively “Brazil Finance Managers”) reported to ROW’s CEO and CFO that they had conducted an investigation and had found evidence that GCC Brazil’s inventory, valued at \$103.78 million as of December 31, 2011, was overstated by at least \$12 million, a material shortfall for Brazil’s financial reporting. The Brazil Finance Managers further reported that they believed the overstatement was due to accounting errors and/or the theft of inventory by GCC Brazil cost accounting personnel, which had occurred throughout 2011 and possibly in prior periods.

16. On the video call, following the disclosure by the Brazil Finance Managers, ROW’s CEO informed the participants that he would not disclose the accounting errors or potential theft to GCC’s executive management and instructed them to keep the matter confidential. ROW’s CEO and CFO failed to take any significant remedial or corrective action to ensure that GCC Brazil’s financial statements were accurate or to address the concern that cost accounting personnel had circumvented GCC’s internal accounting controls.

17. From February to September 2012, ROW’s CEO and CFO took affirmative steps to mislead or conceal GCC Brazil’s inventory accounting errors from GCC’s executive management, and internal and external auditors, including, for example, the following: (a) issuing or supporting a directive to destroy all relevant company records concerning the missing inventory; (b) submitting to GCC false sub-certifications of ROW’s financial statements for the quarters ended December 31, 2011, March 31, 2012, and June 29, 2012, and instructing the Brazil CFO to do the same; (c) instructing the Brazil Finance Managers not to disclose the inventory accounting errors to members of GCC’s Internal Audit, who were onsite in early 2012; (d) with respect to ROW’s CEO, failing to include the accounting errors in monthly reports submitted to GCC executive management; and (e) failing, until May 2012, to provide necessary support to investigate the inventory overstatement reported by Brazil Finance Managers.

18. In mid-May 2012, ROW’s CFO eventually authorized a ROW cost accountant (located outside Brazil) to assist the Brazil Finance Managers’ ongoing investigation of the inventory accounting issues. In less than two weeks of analysis, the accountant not only corroborated the Brazil Finance Managers’ findings, but reported to ROW’s CFO that inventory was improperly overstated by a significant magnitude. The accountant, in this regard, notified ROW’s CFO, in both an e-mail and on a videoconference call including the Brazil Finance Managers, that the magnitude of the inventory accounting errors was approximately \$30 million.

19. Despite this increasing magnitude of the overstatement and its material impact on GCC’s financial statements, ROW’s CFO continued to disregard the mounting evidence and merely instructed the cost accountant to reassess and report back in six weeks.

20. On July 10, 2012, the cost accountant submitted a written report to ROW’s CFO confirming that GCC Brazil’s inventory was overstated by \$29 million due to significant accounting errors and internal control deficiencies. ROW’s CEO and CFO, however, continued to conceal the inventory errors from GCC’s executive management and, on August 3, 2012, GCC filed its Form 10-Q for the quarter ended June 30, 2012, which again materially understated costs of sales and overstated inventory.

21. Given the decentralized reporting structure of GCC's ROW segment, over which GCC's executive management had little actual oversight, the Brazil Finance Managers regarded ROW's CEO and CFO as the highest level to whom they could report their concerns, and believed that they did not have direct access to GCC executive management. ROW's CEO and CFO further reinforced this belief by discouraging the country-level financial managers, including the Brazil Finance Managers, from reporting issues outside of their direct reporting chain.

22. In late September 2012, the Brazil CFO informed the ROW CEO and CFO that, despite the ROW CEO and CFO's continued protests, she intended to disclose the accounting overstatement to GCC's executive management and external auditors, who were preparing for the upcoming fiscal year audit. Faced with no other choice, the ROW CEO reported the matter to GCC's executive management, who immediately directed an internal investigation of the inventory issues.

Restatement No. 1

23. On October 29, 2012, GCC announced that it had identified inventory related accounting errors within the ROW segment, and that its previously issued financial statements for fiscal years 2009 through 2011, and for the interim periods ended March 31 and June 30, 2012, should not be relied upon. On March 1, 2013, GCC, after completing the internal investigation, restated its financial statements as follows: For the annual periods ended December 31, 2011, 2010, 2009, and 2008, and for the quarterly periods ended March 30 and June 29, 2012, cost of sales was understated by \$17.9 million, \$8.3 million, \$5.6 million, \$7.1 million, \$2.7 million and \$6.2 million, respectively. For the same periods above, inventory balances were overstated by \$40.0 million, \$27.0 million, \$17.4 million, \$8.7 million, \$43.7 million, and \$43.5 million, respectively.

Restatement No. 2

24. GCC Brazil also failed to implement and maintain sufficient internal accounting controls relating to revenue recognition, which ultimately caused GCC to restate its financial statements a second time in January 2014. Following the detection and internal investigation of GCC Brazil's inventory accounting errors, GCC identified inappropriate revenue recognition practices with regard to bill and hold sales at GCC Brazil. Specifically, GCC found evidence that revenue recognition criteria under U.S. Generally Accepted Accounting Principles with respect to bill and hold sales were not met in a number of instances.

25. On October 15, 2013, GCC concluded that due to the accounting errors related to (i) revenue recognition in connection with historical bill and hold transactions for aerial transmission projects in Brazil and (ii) value added tax ("VAT") assets, GCC's previously issued consolidated financial statements for the fiscal years 2008 through 2012 and the interim periods during those years, and the interim financial statements as of and for the three months ended March 29, 2013 should no longer be relied upon. On January 21, 2014, GCC restated its results for the relevant quarters and fiscal year-ends.

Legal Standards and Violations

26. Under Section 21C(a) of the Exchange Act, 15 U.S.C. § 78u-3(a), if the Commission finds that any person is violating, has violated, or is about to violate any provision of the Exchange Act, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation.

27. As a result of the conduct described above, GCC violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, and 13a-13 thereunder, which require an issuer to file with the Commission accurate annual, current, and quarterly reports. 15 U.S.C. § 78m; 17 C.F.R. §§ 240.13a-1, 13a-11 & 13a-13. GCC also violated Exchange Act Rule 12b-20, 17 C.F.R. § 240.12b-20, which requires an issuer in its periodic reports to add such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

28. GCC further violated Section 13(b)(2)(A) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(A), under which every issuer which has a class of securities registered pursuant to Section 12 of the Exchange Act is required to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.

29. GCC further violated Section 13(b)(2)(B) of the Exchange Act, 15 U.S.C. § 78m(b)(2)(B), under which every issuer which has a class of securities registered pursuant to Section 12 of the Exchange Act is required to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

GCC's Self-Reporting, Cooperation, and Remedial Efforts

30. In determining to accept GCC's Offer, the Commission considered GCC's self-reporting, substantial cooperation, and remedial efforts. GCC promptly self-reported the potential inventory accounting errors in October 2012 after it retained outside counsel to conduct an internal investigation. GCC also self-reported other accounting issues as its investigation progressed, and regularly updated the staff on the investigation.

31. GCC further provided complete and timely cooperation with the staff by providing detailed presentations on the key findings of the investigation, and promptly producing all relevant documents and information (including thousands of documents translated into English), chronologies, key document binders, interview downloads, and forensic accounting

analyses. GCC also made its current or former employees available for interviews by the staff upon request, including facilitating certain employees to travel to the United States from abroad for interviews.

32. GCC also undertook extensive remediation. GCC has terminated or taken disciplinary actions against employees who were involved in the accounting issues. All of GCC's executive management during the relevant time period has been replaced. GCC has restructured its financial reporting to require its regional finance departments to report directly to GCC's CFO and Controller.

33. Finally, GCC restructured its compliance policies and programs by appointing a Chief Compliance Officer who reports directly to GCC's CEO and Audit Committee. Under this restructuring, GCC has enhanced its training of sales and accounting personnel on compliance policies and expectations, implemented regular reviews of accounting adjustments, improved the inventory reconciliation process and security procedures, developed a global information technology strategy for risk assessment and control for financial reporting, and instituted evaluations for compliance performance through performance indicators and audits.

Undertakings

34. Respondent has undertaken to cooperate fully with the Commission in any and all investigations, litigation, or other proceedings relating to or arising from the matters described in this Order. In connection with such cooperation, Respondent shall:

1. Produce, without service of a notice or subpoena, any and all non-privileged documents and other information requested by the Commission staff subject to any restrictions under the law of any foreign jurisdiction;

2. Use its best efforts to cause its current or former officers, employees, and directors to be interviewed by Commission staff at such times and places as the staff reasonably may direct;

3. Use its best efforts to cause its current or former officers, employees, and directors to appear and testify without service of a notice or subpoena in such investigations, depositions, hearings, or trials as may be requested by the Commission staff; and

4. In connection with any testimony of Respondent's officers, employees, and directors to be conducted at deposition, hearing, or trial pursuant to a notice or subpoena, Respondent

a. Agrees that any such notice or subpoena for the appearance and testimony of Respondent's officers, employees, and directors may be served by regular or electronic mail on: Christian J. Mixer, Esq., Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, N.W., Washington, DC 20004, christian.mixer@morganlewis.com, with a copy to Emerson C. Moser, Esq., Senior Vice President, General Counsel and Corporate Secretary, General Cable

Corporation, 4 Tesseneer Drive, Highland Heights, KY 41076-9753,
emoser@generalcable.com;

b. Agrees that any such notice or subpoena for the appearance and testimony of Respondent's officers, employees, and directors in any action pending in a United States District Court may be served, and may require testimony, beyond the territorial limits imposed by the Federal Rules of Civil Procedure.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, GCC cease-and-desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

B. GCC shall, within 30 days of the date of entry of this Order, pay a civil monetary penalty of \$6,500,000 to the Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of the civil monetary penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

C. Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent 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) Respondent 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 General Cable Corporation as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Gerald W. Hodgkins, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

D. 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 agrees that in any Related Investor Action, Respondent shall not argue that Respondent is entitled to, nor shall Respondent 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 agrees that Respondent 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 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.

By the Commission.

Brent J. Fields
Secretary