

Press Release

Medical Device Company Charged With Accounting Failures and FCPA Violations

FOR IMMEDIATE RELEASE

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Washington D.C., Jan. 18, 2017 — The Securities and Exchange Commission today announced that Texas-based medical device company Orthofix International has agreed to admit wrongdoing and pay more than \$14 million to settle charges that it improperly booked revenue in certain instances and made improper payments to doctors at government-owned hospitals in Brazil in order to increase sales.

Four then-executives at Orthofix also agreed to pay penalties to settle cases related to the accounting failures, which according to the SEC's order involved Orthofix improperly recording certain revenue as soon as a product was shipped despite contingencies requiring certain events to occur in order to receive payment in the transaction. In other instances, Orthofix immediately recorded revenue when it had provided customers with significant extensions of time to make payments. The accounting failures caused the company to materially misstate certain financial statements from at least 2011 to the first quarter of 2013.

"Orthofix's accounting failures were widespread and significant, causing Orthofix to make false statements to the public about its financial condition," said Antonia Chion, Associate Director in the SEC's Enforcement Division.

The SEC's order further finds that Orthofix violated the Foreign Corrupt Practices Act (FCPA) when its subsidiary in Brazil schemed to use high discounts and make improper payments through third-party commercial representatives and distributors to induce doctors under government employment to use Orthofix's products. Fake invoices were used for purported services.

Kara N. Brockmeyer, Chief of the SEC Enforcement Division's FCPA Unit, added, "Orthofix did not have adequate internal controls across all its subsidiaries and failed to detect and prevent the improper payments in Brazil that were intended to boost sales."

Orthofix agreed to pay an \$8.25 million penalty to resolve the accounting violations and more than \$6 million in disgorgement and penalties to settle the FCPA charges. The company agreed to retain an independent compliance consultant for one year to review and test its FCPA compliance program. The SEC's order noted Orthofix's cooperation and remedial acts.

Jeff Hammel, a former accounting executive in Orthofix's largest business segment, agreed to pay a \$20,000 penalty and former sales executives Kenneth Mack and Bryan McMillan agreed to pay penalties of \$40,000 and \$25,000 respectively. Hammel also agreed to be suspended from appearing or practicing before the SEC as an accountant, which includes not participating in the financial reporting or audits of public companies. The SEC's order permits Hammel to apply for reinstatement after two years. Orthofix's former corporate CFO Brian McCollum agreed to pay a \$35,000 penalty and reimburse the company \$40,885 for bonuses he received during the period when the company committed accounting violations. The four consented to the SEC's orders without admitting or denying the findings.

Orthofix's then-CEO Robert Vaters, who was not charged with wrongdoing, has reimbursed the company \$72,886 for cash bonuses and certain stock awards he received during the period when the company committed accounting violations. Therefore, it wasn't necessary for the SEC to pursue a Sarbanes-Oxley Section 304(a) clawback action against him.

The SEC's investigation into the accounting violations was conducted by Noel Gittens and Richard Haynes with assistance from Gregory Bockin. It was supervised by Ricky Sachar and Ms. Chion. The SEC's investigation into the FCPA violations was conducted by Sana Muttalib and supervised by Ansu N. Banerjee and Ms. Brockmeyer. The SEC appreciates the assistance of the Comissao de Valores Mobiliarios in Brazil.

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Related Materials

- [SEC Order - Orthofix](#)
- [SEC Order - Hammel](#)
- [SEC Order - McCollum](#)
- [SEC Order - Mack and McMillan](#)