Device maker Biomet paying $22.7M in US accords

MARCY GORDON - AP Business Writer - Associated Press

Medical device maker Biomet Inc. has agreed to pay $22.7 million to settle U.S. criminal and civil allegations that it bribed government-employed doctors in Argentina, Brazil and China for more than eight years to win business with hospitals.

The Justice Department and the Securities and Exchange Commission announced the settlements Monday with Warsaw, Ind.-based Biomet. The company will pay a $17.3 million criminal penalty but won't be prosecuted by the Justice Department if it institutes strict internal controls to prevent bribery and hires an expert to monitor its compliance for 18 months. Biomet, which operates in about 90 countries, also agreed to pay $5.4 million in restitution to resolve the SEC's civil charges.

Biomet is the third medical device company to pay a criminal penalty and sign a deferred-prosecution agreement in the government's investigation into bribery by medical device makers of doctors employed by governments overseas.

That investigation continues, the government agencies said.

In a similar case last April, health care giant Johnson & Johnson agreed to pay $70 million to settle criminal and civil charges of bribing doctors in Europe and paying kickbacks to the Iraqi government to obtain business. And British orthopedics maker Smith & Nephew agreed last month to pay $22.2 million to resolve allegations that it bribed doctors employed by the Greek government.

Biomet makes products used mostly by orthopedic surgeons for procedures like hip or knee implants. The government accused the company of violations of the Foreign Corrupt Practices Act in Argentina, Brazil and China from 2000 to August 2008. The law prohibits bribery of foreign government officials or company executives to secure or retain business.

Employees and managers at all levels of the parent company and four subsidiaries were involved, along with distributors who sold Biomet products, the government said. It said Biomet's internal watchdog employees failed to halt the illegal bribes to doctors although they knew about them.

"A company's compliance and internal audit should be the first line of defense against corruption, not part of the problem," Kara Brockmeyer, the head of the SEC enforcement division's unit that deals with foreign bribery cases, said in a statement.

Some emails described the way that device vendors would deliver cash to surgeons after they finished operating, and others discussed the amounts of bribes, according

to the government.

Biomet President and CEO Jeffrey Binder said the company has "significantly enhanced" its compliance procedures and financial controls in recent years.

"Moving forward, we intend to continue to adhere to our enhanced global compliance procedures and to promote the company's commitment to the highest ethical standards in all the markets that we serve," Binder said in a statement.

The Justice Department said it acknowledged that Biomet had cooperated in the investigation and had taken corrective action. In addition, the amount of the criminal penalty takes into account Biomet's cooperation in the investigation of other companies and individuals, Justice said.

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