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RISK & COMPLIANCE JOURNAL

SEC Issues \$4.5 Million Whistleblower Award

Tipster's lawyer says his client notified the SEC about an alleged kickback scheme in Brazil



Zimmer Biomet in 2017 settled investigations by the SEC and the Justice Department into alleged violations of the U.S. Foreign Corrupt Practices Act. PHOTO: MORITZ HAGER/REUTERS

By Mengqi Sun and Kristin Broughton

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A former orthopedic surgeon in Brazil received an award of more than \$4.5 million for raising concerns to the Securities and Exchange Commission about an alleged kickback scheme operated by a subsidiary of a medical device maker, according to lawyers for the whistleblower.

The SEC announced the award Friday, but the regulator didn't identify the company or the whistleblower.

Lawyers representing the tipster, Christopher Connors of Connors Law Group LLC and Andy Rickman of Rickman Law Group LLP, identified the subsidiary's parent company as device maker Zimmer Biomet Holdings Inc., which in 2017 settled investigations by the SEC and the U.S. Department of Justice into alleged violations of the U.S. Foreign Corrupt Practices Act.

The whistleblower notified the SEC about an alleged kickback scheme in Brazil, Mr. Connors said. He declined to name the tipster but described him as a former surgeon and former president of the Brazilian Orthopedic Sports Medicine Society.

Chad Phipps, general counsel of Zimmer Biomet, said in an email Friday that the company doesn't comment on legal matters.

The award is the latest development in a foreign corruption case involving the medical device maker, regulatory documents indicate.

Zimmer Biomet in January 2017 paid about \$30 million to settle the SEC and Justice Department probes. Those investigations were related to Biomet Inc., according to the SEC. Biomet was bought by Zimmer Holdings in 2015, a combination that led to the creation of Zimmer Biomet.

In 2013, the former orthopedic surgeon sent an anonymous email to Biomet executives, claiming that the company continued to operate a kickback scheme in Brazil, according to Mr. Connors. The tipster later alerted the SEC, the lawyer said. Federal authorities acted on the tip.

The 2017 settlement agreement followed an agreement by Biomet in 2012 to pay \$22 million to settle an investigation into allegations that Biomet and subsidiaries paid bribes to doctors in Argentina, Brazil and China from 2000 to 2008 to win business, according to the SEC.

Under SEC rules, whistleblowers are entitled to between 10% and 30% of monetary penalties when their tips result in a successful enforcement action and when the monetary penalties are more than \$1 million.

The whistleblower receiving the award Friday received about 15% of the amounts collected by the SEC and the Justice Department.

The SEC has awarded about \$381 million to 62 individuals under its whistleblower program.

Some tipsters have grown frustrated with the length of time it has taken the regulator to make determinations on such awards.

Between 2014 and 2017, the SEC took an average of more than two years to decide if a whistleblower deserved a reward, according to an analysis by The Wall Street Journal. That is more than twice as long as in 2012 and 2013, the early years of the whistleblower program.

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