Press Release

SEC Charges Medical Device Company With FCPA Violations

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Washington D.C., March 29, 2019 — The Securities and Exchange Commission today announced that Fresenius Medical Care AG & Co KGaA (FMC) has agreed to pay more than $231 million to resolve parallel SEC and U.S. Department of Justice investigations related to its violations of the Foreign Corrupt Practices Act (FCPA) across multiple countries for nearly a decade.

The SEC's order finds that FMC, a German-based worldwide provider of products and services for individuals with chronic kidney failure engaged in misconduct in Saudi Arabia, Morocco, Angola, Turkey, Spain, China, Serbia, Bosnia, Mexico, and eight countries in the West African region against a backdrop where the company failed to have sufficient internal accounting controls. FMC made improper payments through a variety of schemes, including using sham consulting contracts, falsifying documents, and funneling bribes through a system of third party intermediaries. Despite known red flags of corruption since the early 2000s, FMC devoted insufficient resources to compliance. In some jurisdictions, Fresenius failed to take basic steps such as providing anti-corruption training or performing due diligence on its agents. In many instances, senior management actively engaged in corruption schemes and directed employees to destroy records of the misconduct. All told FMC paid nearly $30 million in bribes to government officials and others to procure business.

"Failure to address the corruption risks in its growing business allowed complicit managers to engage in bribery schemes that went undetected for more than a decade," said Charles Cain, Chief of the FCPA Unit. "As companies expand their business, their internal accounting controls and compliance programs must keep up."

"By engaging in widespread bribery schemes across multiple countries, the company prioritized profits over compliance in its dealings with foreign government officials," said Tracy Price, Deputy Chief of the SEC Enforcement Division's FCPA Unit.

FMC agreed to pay $147 million in disgorgement and interest to the SEC as well as a criminal fine of $84.7 million as part of a non-prosecution agreement announced today by the Justice Department. FMC must retain an independent compliance monitor for two years and self-report its FCPA compliance efforts for the year after the monitor expires.

The SEC's investigation was conducted by Irene Gutierrez, M. Shahriar Masud, and Michelle L. Ramos. The case was supervised by Tracy L. Price. The SEC appreciates the assistance of the U.S. Department of Justice Criminal Division's Fraud Section, the U.S. Attorney's Office for the District of Massachusetts, and the Federal Bureau of Investigation.

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Related Materials

- SEC Order