FRAUD

Surgalign to Pay SEC $2 Million to Settle Accounting and Disclosure Fraud Charges

Company restated its financial statements from 2014 through 2019 to correct errors caused by its reliance on "pull forwards."

Aug. 04, 2022

The Securities and Exchange Commission (SEC) today charged Surgalign Holdings Inc., formerly RTI Surgical Holdings Inc., and former executives Brian Hutchison and Robert Jordheim for masking disappointing sales numbers by shipping future orders ahead of schedule to accelerate, or "pull forward," revenue and then failing to disclose this practice to investors.

In June 2020, RTI restated its public financial statements from 2014 through 2019 to correct errors caused by this practice.

As alleged by the SEC, RTI's reliance on pull-forwards cannibalized future revenue streams and damaged important customer relationships while the company reassured investors it was meeting revenue guidance. The SEC further alleged that RTI sometimes shipped orders early without customer approval and recognized revenue for those shipments prematurely, in violation of generally accepted accounting principles (GAAP), and that RTI's former CEO, Hutchison, and former CFO, Jordheim, permitted RTI to recognize revenue for such shipments.

"We allege that RTI's dependence on shipping future orders early concealed the company's true financial performance from investors and in some instances violated GAAP," said D. Mark Cave, associate director of the SEC's Division of Enforcement. "This action arose out of our Earnings Per Share Initiative, which has been an important tool in our efforts to expose difficult-to-detect accounting improprieties and has enhanced our ability to hold companies and their executives accountable for misconduct."

The SEC's complaint against Hutchison charges him with violating antifraud and other provisions of the federal securities laws and seeks civil penalties and the return, pursuant to Section 304 of the Sarbanes-Oxley Act (SOX), of his bonuses and profits from sales of RTI stock, among other relief.

Without admitting or denying the SEC's findings, Surgalign and Jordheim agreed to cease and desist from violating Sections 17(a)(2) and (3) of the Securities Act of 1933 and other provisions of the securities laws and to pay civil penalties of $2 million and $75,000, respectively. Jordheim also agreed to return $206,831 to Surgalign pursuant to SOX Section 304 and to be suspended from appearing and practicing before the SEC as an accountant. The order permits Jordheim to apply for reinstatement after five years.

Separately, three other former RTI executives returned over $361,000 of incentive-based compensation to Surgalign. Their tenure as RTI executives post-dated Hutchison's and Jordheim's alleged violations of the antifraud and other provisions of the federal securities laws.

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