

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION
100 F Street, N.E.
Washington, D.C. 20549,

Plaintiff,

v.

MONTY FU,

Defendant.

Case: 1:07-cv-01735
Assigned To : Sullivan, Emmet G.
Assign. Date : 9/27/2007
Description: General Civil

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges that:

NATURE OF THE ACTION

1. From 1985 through December 2002, Syncor International Corporation ("Syncor"), a provider of radiopharmaceutical products and services, violated the books and records and internal controls provisions of the Foreign Corrupt Practices Act ("FCPA") (Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(2)(B)]) in connection with certain payments made through its wholly-owned Taiwanese subsidiary, Syncor Taiwan, Inc. ("Syncor Taiwan"). During the seventeen-year time period, Syncor, through Syncor Taiwan, paid commissions and referral fees to doctors employed by private and public hospitals in Taiwan. The total payments to doctors averaged over \$30,000 per year from 1989 through at least 1993 and increased to average over \$170,000 per year from at least 1997 through the first half of 2002. Syncor Taiwan improperly recorded

the payments in its accounting books and records as “Advertising and Promotions” expenses. Syncor Taiwan’s books and records were then consolidated into the books and records of its parent, Syncor, and included in financial statements filed with the Commission.

2. Defendant Monty Fu (“Fu”), was Syncor’s founder and, at various times, Syncor’s Chief Executive Officer and Chairman of Syncor’s board of directors. As described below, Fu had the authority to maintain compliance with existing internal controls, and to implement additional internal controls designed to comply with the FCPA’s books and records and internal controls provisions, yet failed to do so.

3. By engaging in such conduct, defendant violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 thereunder [17 C.F.R. § 240.13b2-1], and aided and abetted Syncor’s books and records and internal controls violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(2)(B)] in violation of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

4. Unless restrained and enjoined by this Court, defendant will continue to engage in transactions, acts and practices that violate these provisions of the federal securities laws. The Commission seeks a permanent injunction against future violations and other relief requested in this Complaint.

JURISDICTION

5. This Court has jurisdiction over this action pursuant to Sections 21(d)(1), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), (e), and 78aa].

DEFENDANT

6. Defendant Monty Fu, at all relevant times a resident of Chatsworth, California, founded Syncor in 1974. He held a variety of positions within Syncor, including as Chief Executive Officer from 1985 to 1989 and as Chairman of its board from 1985 to November 6, 2002, when he was placed on paid leave until his resignation in December 2002. From at least 1996 through early 2002, Fu also served as Director, Asia Region of Syncor Overseas Ltd., the holding company of Syncor's foreign subsidiaries.

OTHER RELEVANT ENTITIES

7. Syncor, founded in 1974, was a Delaware corporation with its headquarters in Woodland Hills, California. Syncor was a provider of radiopharmaceutical products and services both in the United States and, through various wholly and partially owned subsidiaries, in 18 foreign countries. At all relevant times, Syncor's common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was listed on the NASDAQ National Market. On January 1, 2003, Syncor became a wholly owned subsidiary of Cardinal Health, Inc. through a stock-for-stock acquisition.

8. Syncor Taiwan, Inc. was established at Fu's direction in 1985 as a wholly-owned subsidiary operating in Taiwan. At all relevant times, Syncor Taiwan's financial results were included in the consolidated financial statements of Syncor.

FACTS

A. Syncor Taiwan's Payment of Commission and Referral Fees

9. From 1985 through 1996, Syncor Taiwan's business consisted chiefly of selling radiopharmaceuticals and medical equipment to end-users. Syncor Taiwan undertook in 1996 to establish medical imaging centers in conjunction with public and private hospitals which would generate management fees for Syncor Taiwan.

10. Commencing in or around 1985 and continuing through December 2002, Syncor Taiwan made payments to doctors at private and public hospitals, for the purpose of influencing the doctors' decisions to purchase radiopharmaceutical products from Syncor Taiwan and to refer patients to Syncor Taiwan's medical imaging centers. The total payments to doctors averaged over \$30,000 per year from 1989 through at least 1993 and increased to average over \$170,000 per year from at least 1997 through the first half of 2002.

11. From approximately 1985 onward, these payments included commissions to doctors who made the purchasing decisions for the nuclear medicine departments of their respective hospitals. Beginning in or about 1997, the commission payments included "medicine fees" which compensated doctors for prescribing medicine purchased, or for using component parts purchased, from Syncor Taiwan for use in tests conducted at a medical imaging center. Commissions typically were based on a percentage (between 10% and 20%) of sales transacted, and typically took the form of a cash payment that was hand-delivered by Syncor Taiwan personnel.

12. Also beginning in or about 1997 and continuing through September 2002, Syncor Taiwan paid referral fees to doctors at private and public hospitals who referred patients to medical imaging centers owned and operated by Syncor Taiwan. These referral fees typically were based on a percentage (between 3% and 5%) of the service fees payable to each medical imaging center from the patients referred, and typically took the form of a cash payment that was hand-delivered to the referring doctor by a bookkeeper at the center after funds had been wire-transferred by Syncor Taiwan to the center for that purpose.

B. Syncor Taiwan's Lack of Sufficient Internal Controls and Misrecording of the Payments

13. Under the FCPA, Syncor was required to design and implement a system of internal controls to ensure that its wholly-owned subsidiary complied with the FCPA's books and records and internal controls provisions. It failed to do this with respect to Syncor Taiwan, which circumvented existing internal controls and failed to implement other controls designed to detect and prevent non-compliance at the company.

14. Syncor's internal accounting policy manual in use from at least 1993, a copy of which was provided to Syncor Taiwan, specified that the "Advertising and Promotions" account on its books and records was to include local and national advertising, convention displays, convention expenses and convention space rental. The manual designated selling-related expenses for other accounts.

15. An employee handbook issued by Syncor in 2001 under Fu's signature specified that "[n]o false or misleading entries shall be made in the books and records of the Company for

any reason, . . . [and] [n]o payment on behalf of the Company shall be approved without adequate supporting document or made with the intention or understanding that any part of such payment is to be used for any purpose other than that described by the document supporting the payment.”

16. At various times during the relevant period, Syncor Taiwan improperly recorded the commissions and referral payments paid to the doctors at public and private hospitals as “Advertising and Promotions” expenses. These entries were rolled up into Syncor’s consolidated books and records.

C. Fu’s Violative Conduct

17. Throughout the relevant time period, Fu had the authority to implement a system of internal controls in the subsidiary sufficient to ensure that transactions were executed in accordance with management’s general or specific authorization and that transactions were recorded in a manner that fairly reflected the transactions. His authority derived from the various positions he held throughout the relevant time period. Fu directed the creation of Syncor Taiwan in 1985. Fu’s brother was country manager for Taiwan. Fu’s brother, who was promoted to various positions in the Asia region during the relevant period, consulted and, at times, reported to Fu about Syncor Taiwan’s operations throughout the relevant period, including the making of payments to doctors.

18. At all relevant times, Fu was aware that Syncor Taiwan was paying commissions and, commencing in 1997, referral fees to doctors at private and public hospitals in Taiwan.

19. In 1994, in connection with the outside auditor's audit of Syncor's 1993 financial statements, Syncor's then chief executive officer and president inquired about the nature of certain payments by Syncor Taiwan and cautioned Fu that Syncor could not make payments for the purpose of influencing doctors' decisions to purchase or use Syncor's products and services. As a result, Fu knew or was reckless in not knowing that the commissions and referral fees were improperly recorded on the books and records of Syncor Taiwan and, thus, of Syncor.

20. Nonetheless, Fu failed to maintain compliance with existing internal controls and also failed to implement additional internal controls to determine whether payments by Syncor Taiwan complied with Syncor's management's specific directive and more generally with the FCPA.

FIRST CLAIM

Violations of Section 13(b)(5) of the Exchange Act and Rule 13b2-1

(Direct violations of books and records and internal controls provisions)

21. Paragraphs 1 through 20 are realleged and incorporated by reference.

22. By engaging in the conduct described above, Fu knowingly failed to implement a system of internal accounting controls sufficient to provide reasonable assurance that transactions were recorded in Syncor's books and records in accordance with Section 13(b)(2)(A) of the Exchange Act.

23. Fu thereby caused the commissions and referral fees to be improperly recorded as "Advertising and Promotions" expenses on the books and records of Syncor Taiwan and Syncor.

24. By virtue of the conduct described above, defendant Fu violated Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder.

SECOND CLAIM

Aiding and Abetting Violations of Section 13(b)(2)(A) of the Exchange Act

(Aiding and Abetting Syncor's Books and Records Violations)

25. Paragraphs 1 through 24 are realleged and incorporated by reference.

26. As described above, Syncor, by and through its foreign subsidiary in Taiwan, failed to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of its assets.

27. By virtue of the conduct described above, Syncor violated Section 13(b)(2)(A) of the Exchange Act.

28. As described above, defendant Fu knowingly provided substantial assistance to Syncor in connection with Syncor's violations of the aforesaid provisions.

29. By virtue of the conduct described above, and pursuant to Section 20(e) of the Exchange Act, defendant Fu aided and abetted Syncor's violations of Section 13(b)(2)(A) of the Exchange Act.

THIRD CLAIM

Aiding and Abetting Violations of Section 13(b)(2)(B) of the Exchange Act

(Aiding and Abetting Syncor's Internal Controls Violations)

30. Paragraphs 1 through 29 are realleged and incorporated by reference.

31. As described above, Syncor, by and through its foreign subsidiary in Taiwan, failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions were executed in accordance with management's general or specific authorization; and (ii) transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and to maintain accountability for its assets.

32. By virtue of the conduct described above, Syncor violated Section 13(b)(2)(B) of the Exchange Act.

33. As described above, defendant Fu knowingly provided substantial assistance to Syncor in connection with Syncor's violations of the aforesaid provision.

34. By virtue of the conduct described above, and pursuant to Section 20(e) of the Exchange Act, defendant Fu aided and abetted Syncor's violations of Section 13(b)(2)(B) of the Exchange Act.

PRAYER FOR RELIEF

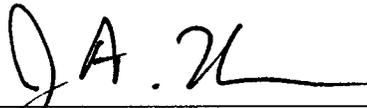
WHEREFORE, plaintiff respectfully requests that this Court enter a Final Judgment against defendant Monty Fu:

1. permanently enjoining him, pursuant to Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], from violating, directly or indirectly, Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder, and from aiding and abetting violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act; and

2. ordering him, pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], to pay civil penalties; and
3. granting such other relief as this Court deems appropriate.

Dated: 9/28, 2007

Respectfully submitted,



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