

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 70751 / October 24, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15587**

<p><b>In the Matter of</b></p> <p style="text-align:center"><b>Stryker Corporation,</b></p> <p><b>Respondent.</b></p>
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**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (the “Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (the “Exchange Act”), against Stryker Corporation (“Stryker” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, Respondent consents to the Commission’s jurisdiction over it and the subject matter of these proceedings and to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

### **III. FACTS**

On the basis of this Order and the Respondent's Offer, the Commission finds<sup>1</sup> that:

#### **Summary**

1. From approximately August 2003 to February 2008 (the "relevant period"), Stryker made approximately \$2.2 million in unlawful payments to various government employees including public health care professionals (collectively, the "foreign officials") in Mexico, Poland, Romania, Argentina, and Greece. Stryker incorrectly described these expenses in the company's books and records as legitimate consulting and service contracts, travel expenses, charitable donations, or commissions, when in fact the payments were improperly made by Stryker to obtain or retain business. Stryker earned approximately \$7.5 million in illicit profits as a result of these payments.

2. During the relevant period, Stryker incorrectly described unlawful payments to foreign officials in its accounting books and records in violation of Section 13(b)(2)(A) of the Securities Exchange Act of 1934 (the "Exchange Act") and failed to devise and maintain an adequate system of internal accounting controls in violation of Section 13(b)(2)(B) of the Exchange Act.

#### **Respondent**

3. Stryker is a Michigan corporation with its principal executive offices in Kalamazoo, Michigan. Stryker manufactures and distributes medical devices and products in more than 100 countries around the world. Its common stock is registered with the Securities and Exchange Commission pursuant to Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange under the symbol "SYK." Stryker is an "issuer" within the meaning of the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. § 78dd-1.

#### **Background**

4. During the relevant period, Stryker sold its medical products around the world. In certain countries, Stryker sold products through wholly-owned regional subsidiaries and through third-party dealers and distributors. Stryker's medical products include implants, surgical equipment, and neurotechnology devices. In 2008, approximately 36% of Stryker's over \$6.7 billion in total sales occurred outside of the United States. The financial results of all of the Stryker subsidiaries discussed herein were consolidated into Stryker's financial statements.

5. Stryker's foreign subsidiaries were organized in a decentralized, country-based structure, wherein a manager of a particular country's operations had primary responsibility for all business within a given country. During the relevant period, each of Stryker's foreign subsidiaries operated pursuant to individual policies and directives implemented by country or regional management. Stryker had corporate policies addressing anti-corruption, but these

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

policies were inadequate and insufficiently implemented on the regional and country level. Accordingly, Stryker failed to devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurance that the company maintained accountability for its assets and that transactions were executed in accordance with management's authorization.

### **Unlawful Payments in Mexico**

6. Between March 2004 and January 2007, Stryker's wholly-owned subsidiary in Mexico ("Stryker Mexico") made three payments totaling more than \$76,000 to foreign officials employed by a Mexican governmental agency (the "Mexican Agency") responsible for providing social security for government employees. Stryker made these payments to win bids to sell its medical products to certain public hospitals in Mexico. Stryker Mexico earned more than \$2.1 million in profits as a result of these illicit payments.

7. These payments were made at the direction of Stryker Mexico employees, including country level management, and paid to the foreign officials through third party agents.

8. For example, in January 2006, Stryker Mexico learned that the Mexican Agency was threatening to revoke a contract that Stryker Mexico had won to provide knee and hip products to certain public hospitals unless Stryker Mexico paid an employee of the Mexican Agency.

9. As a result of the demand by the employee of the Mexican Agency, Stryker Mexico directed its outside counsel in Mexico (the "Mexican Law Firm") to make a payment to the employee, on Stryker Mexico's behalf, in order for Stryker to keep the winning bid.

10. At Stryker Mexico's direction, the Mexican Law Firm paid the foreign official approximately \$46,000 on behalf of Stryker Mexico and, as a result of this payment, the Mexican Agency did not revoke Stryker Mexico's status as the winning bidder. The Mexican Law Firm then invoiced Stryker Mexico for \$46,000 for purported legal services rendered, even though no such services were provided. Stryker Mexico recorded these improper payments as legitimate legal expenses in its books and records.

11. Stryker Mexico earned over \$1.1 million in illicit profits on this contract alone.

12. Stryker Mexico made two additional payments through intermediaries during the relevant period in much the same fashion, with the purpose of retaining or obtaining business from public hospitals. The additional payments were in excess of \$34,000 and earned Stryker illicit profits of nearly \$1 million.

### **Unlawful Payments in Poland**

13. Between August 2003 and November 2006, Stryker's wholly-owned subsidiary in Poland ("Stryker Poland") made 32 improper payments to foreign officials in Poland for the purpose of obtaining or retaining business at public hospitals. In total, Stryker Poland made approximately \$460,000 in unlawful payments resulting in more than \$2.4 million of illicit profits.

14. These improper payments were recorded in Stryker's books and records as legitimate expenses, including reimbursement for business travel, consulting and service contract payments, and charitable donations.

15. For example, in May 2004, Stryker Poland paid for a foreign official then employed as the director of a public hospital in Poland, and her husband, to travel to New York City and Aruba. Although the official purpose of the trip was for the foreign official to attend a single-day tour of Stryker's manufacturing and research facility in Mahwah, New Jersey, Stryker paid for the couple's six-night stay at a hotel in New York City, attendance at two Broadway shows, and a five-day trip to Aruba before their return flight to Poland.

16. According to Stryker Poland's records, expenses for the trip, including airfare, accommodations, and entertainment, totaled approximately \$7,000, all of which Stryker Poland recorded as legitimate travel expenses.

17. Stryker Poland's internal documents confirm a quid pro quo arrangement between Stryker Poland and the foreign official. For example, the form containing the schedule for the foreign official's facility tour states that the purpose of the visit was to "strengthen [the public doctor's] conviction that Stryker products are the best solution for her hospital," and notes that "we won a big tender for [one product] (about \$350,000) and in this year they are going to buy our products for \$500,000."

18. Stryker Poland also made additional improper travel payments, payments under purported consulting agreements totaling approximately \$47,000, and gifts and donations of nearly \$400,000, each of which was made to a state-employed healthcare professional for the purpose of Stryker Poland's obtaining or retaining the business of public hospitals.

### **Unlawful Payments in Romania**

19. From at least 2003 through July 2007, Stryker's wholly-owned subsidiary in Romania ("Stryker Romania") made 192 improper payments to foreign officials totaling approximately \$500,000 in order to obtain or retain business with affiliated public hospitals.

20. Stryker Romania recorded these payments as legitimate sponsorships of foreign officials' attendance, travel and lodging at conferences, and medical events, when in reality they were illicit payments made to obtain or retain business.

21. As a result of these payments, Stryker Romania earned more than \$1.7 million in illicit profits.

22. For example, in April 2004, a Stryker Romania salesperson submitted a form to sponsor a foreign official's lodging abroad to attend a conference. The form stated that a "business benefit[]" from the sponsorship was that, in return, Stryker Romania would receive a contract for the sale of a particular medical device. In addition, Stryker Romania internally discussed that the foreign official in question was "waiting to be confirmed as chief physician" at a public hospital, "thus becoming important" for an upcoming bid for a contract. Stryker Romania recorded the payment as a legitimate business travel expense even though its own

internal documents demonstrated that the payment was made with the purpose of obtaining future business.

### **Unlawful Payments in Argentina**

23. Between 2005 and 2008, Stryker's wholly-owned subsidiary in Argentina ("Stryker Argentina") made 392 commission payments, or "honoraria," to physicians employed in the public healthcare system in order to obtain or retain business with affiliated public hospitals.

24. Unlike traditional honorarium payments that are made in exchange for the provision of a service (such as making a speech), these honoraria were commissions that were calculated as a percentage of a total sale to a particular hospital and then paid to the public doctor associated with the sale. Stryker Argentina routinely made these payments by check to doctors at rates between 20% and 25% of the related sale.

25. In total, Stryker Argentina made more than \$966,500 in improper honoraria payments during the relevant period, causing Stryker Argentina to earn more than \$1.04 million in profits from the public hospitals with which the doctors were associated.

26. Stryker Argentina booked these payments as commission expenses in an account entitled "Honorarios Medicos," when in fact they were unlawful payments made to compensate doctors for purchasing Stryker products.

### **Unlawful Payments in Greece**

27. In 2007, Stryker's wholly-owned subsidiary in Greece ("Stryker Greece") made a sizeable and atypical donation of \$197,055 to a public university (the "Greek University") to fund a laboratory that was then being established by a foreign official who served as a prominent professor at the Greek University, and was the director of medical clinics at two public hospitals affiliated with the Greek University.

28. As a result of this donation, Stryker Greece earned a total of \$183,000 in illicit profits.

29. The donation was made pursuant to a quid pro quo arrangement with the foreign official, pursuant to which Stryker Greece understood it would obtain and retain business from the public hospitals with which the foreign official was affiliated, in exchange for making the donation to the foreign official's pet project.

30. In an email from the country manager of Stryker Greece to the regional manager, the country manager emphasized that she believed the donation to the Greek University was necessary to secure future sales for Stryker Greece.

31. The country manager wrote: "I think that anything below 30K will leave [the foreign official] disappointed. He did promise that he would direct his young assistants into using our trauma and sports medicine products. [The foreign official] is . . . difficult to get as a 'friend' and really tough to have as a disappointed customer." The regional manager asked,

“What do we get for the sponsorship – or is it just a gift?” The country manager confirmed the quid pro quo, stating, “For the sponsorship we get the Spine business and a promise for more products in his Department. . .”

32. At a later date, another country manager stated, “I am willing to support what [the foreign official] is asking for in order to secure the sales he is bringing in.” The regional manager then approved the request. Soon thereafter, the country manager said of his meeting with the foreign official: “Things went well (how couldn’t they—I offered him the amount he is asking for . . .). . . . My impression is that we will start business again.”

33. Stryker Greece made the donation to the Greek University in three installments, each of which was improperly booked as a legitimate marketing expense in an account entitled “Donations and Grants.”

#### **IV. FCPA VIOLATIONS**

##### **Books and Records Violations**

34. As detailed above, Stryker’s foreign subsidiaries made over \$2.2 million in unlawful payments to foreign officials that were incorrectly described in the company’s books and records. Stryker improperly recorded these payments as legitimate consulting and service contract payments, business travel expenses, charitable donations, or commissions.

35. As a result of the conduct described above, Stryker violated Section 13(b)(2)(A) of the Exchange Act, which requires every issuer with a class of securities registered pursuant to Section 12 of the Exchange Act to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer. Public companies are responsible for ensuring that their foreign subsidiaries comply with Exchange Act Section 13(b)(2)(A).

##### **Internal Controls Violations**

36. As detailed above, Stryker and its foreign subsidiaries failed to devise and maintain an adequate system of internal accounting controls sufficient to provide reasonable assurance that the company maintained accountability for its assets and that transactions were executed in accordance with management’s authorization. Due to this lack of oversight, Stryker incorrectly booked over \$2.2 million in illicit payments to foreign officials as legitimate expenses without properly examining the circumstances surrounding the accounting treatment of these payments. In many instances, even a cursory review of the underlying documentation, such as travel authorization forms and itineraries, would have revealed the illegitimate nature of the payments.

37. As a result of the conduct described above, Stryker violated Section 13(b)(2)(B) of the Exchange Act, which requires all public companies to, among other things, devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded in accordance with management’s general or specific authorization; and transactions are recorded as necessary to permit preparation of financial statements in

conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets. Public companies are responsible for ensuring that their foreign subsidiaries comply with Exchange Act Section 13(b)(2)(B).

### **Stryker's Remedial Efforts**

38. In response to the Commission's investigation, Stryker retained outside counsel to assist Stryker in conducting an internal investigation into Stryker's compliance with the FCPA in the jurisdictions that were the subject of the staff's inquiry, as well as in jurisdictions where issues arose through Stryker's audit and hotline processes. Stryker voluntarily produced reports and other materials to the Commission staff summarizing the findings of its internal investigation. In total, Stryker produced over 800,000 pages of documents at Stryker's expense, including courtesy translations of numerous key documents.

39. Since the time of the conduct detailed above, Stryker implemented a company-wide anti-corruption compliance program, which includes: (a) enhanced corporate policies and standard operating procedures setting forth specific due diligence and documentation requirements for relationships with foreign officials, health care professionals, consultants, and distributors; (b) compliance monitoring and corporate auditing specifically tailored to anti-corruption, including the hiring of a chief compliance officer and a sizeable full-time dedicated staff in both its internal audit and compliance functions to ensure FCPA compliance and the implementation of periodic self-assessments; (c) enhanced financial controls and governance; (d) expanded anti-corruption training to all Stryker employees; and (e) the maintenance of an Ethics Hotline which serves as a mechanism for employees to report any actual or suspected illegal or unethical behavior.

40. In addition to its internal anti-corruption enhancements, from 2007 through the present, Stryker engaged a third-party consultant to perform FCPA compliance assessments and compile written reports for Stryker's operations in dozens of foreign jurisdictions across the world at least annually. Stryker voluntarily produced documents that permitted the Commission staff to assess how Stryker's internal audit and compliance functions used the results of each of the assessments to implement additional enhancements to its infrastructure, to target jurisdictions for future assessments, and to create management action plans in collaboration with local management.

41. Based on the improvements described above, Stryker has demonstrated a commitment to designing and funding a meaningful compliance program in order to prevent and detect violations of the FCPA and other applicable anti-bribery laws.

## **V.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Stryker's Offer.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 21C of the Exchange Act, Respondent Stryker shall cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act;
- B. Respondent shall, within ten days of the entry of this Order, pay \$13,283,523 to the United States Treasury, including \$7,502,635 in disgorgement, \$2,280,888 in prejudgment interest thereon, and a civil monetary penalty of \$3,500,000. If timely payment is not made, interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:
  - (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
  - (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
  - (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Stryker as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Andrew M. Calamari, Regional Director, New York Regional Office, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

By the Commission.

Elizabeth M. Murphy  
Secretary