

Department of Justice

THE UNITED STATES ATTORNEY'S OFFICE
DISTRICT *of* MASSACHUSETTS

FOR IMMEDIATE RELEASE

Friday, October 29, 2014

Biomet Companies Pay Over \$6 Million to Resolve False Claims Act Allegations Concerning Bone Growth Stimulators

BOSTON – EBI LLC (d/b/a Biomet Spine and Bone Healing Technologies) and Biomet Inc. have paid \$6.07 million to resolve allegations that EBI violated the False Claims Act by paying kickbacks to induce use of its bone growth stimulators and billing federal health care programs for refurbished stimulators, the Department of Justice announced today. EBI is a medical device company located in Parsippany, New Jersey, that sells bone growth stimulators, which are used to repair fractures that are slow to heal. It is a subsidiary of Warsaw, Indiana, based Biomet.

The United States alleged that, from 2001 to 2008, EBI paid staff at doctors' offices to induce doctors to order its bone growth stimulators. These payments were allegedly provided pursuant to personal service agreements with staff members. The United States concluded that these payments violated the federal anti-kickback statute and resulted in false billings to various federal health care programs, including Medicare. The settlement also resolves EBI's disclosure that it received federal reimbursements for bone growth stimulators that had been refurbished.

"This settlement demonstrates our resolve in ensuring that patients receive, and the government pays for, health care that is based on sound medical judgment, and not compromised by kickbacks," said U.S. Attorney Carmen M. Ortiz of the District of Massachusetts.

"Medical device companies must not use improper financial incentives to influence the decision to use their products," said Acting Deputy Assistant Attorney General August Flentje of the Justice Department's Civil Division. "This settlement demonstrates the Department's commitment to protect patients, and the taxpayers who fund their care, by ensuring that medical decisions are based on the patients' medical needs rather than the financial interests of others."

"Kickbacks taint medical decision-making, cause overutilization of services, and lead to increased taxpayer and patient costs," said Special Agent in Charge Phillip Coyne of the Office of Inspector General, United States Department of Health and Human Services. "These improper inducements have no place in government health programs relied on by millions of Americans."

The settlement resolves in part an allegation filed in a lawsuit by Yu Yue, a former product manager for EBI, in federal court in New Jersey. The lawsuit was filed under the qui tam, or whistleblower, provisions of the False Claims Act, which permit private individuals to sue on behalf of the government for false claims and to share in any recovery. Yu's share has not yet been determined.

The settlement was the result of a coordinated effort by the United States Attorney's Office for the District of Massachusetts; Commercial Litigation Branch of the Department of Justice's Civil Division; the Department of Health and Human Services Office of Inspector General; the U.S. Postal Service Office of Inspector General; the Defense Criminal Investigative Service; the U.S. Department of Veterans Affairs, Office of Inspector General and the U.S. Food and Drug Administration, Office of Criminal Investigations.