

General Cable Pays \$82M To Resolve DOJ, SEC Probes

By **Pete Brush**

Law360, New York (January 3, 2017, 3:29 PM EST) -- General Cable Corp. has resolved investigations into what prosecutors call a decade of bribes to officials in Africa and Asia to win business, paying \$82.3 million to the U.S. Department of Justice and U.S. Securities and Exchange Commission to resolve Foreign Corrupt Practices Act and separate accounting violations.

The payments include a \$20 million penalty, part of a three-year non-prosecution agreement with criminal investigators, the Highland Heights, Kentucky-based fiber optic wire and cable products concern said.

"General Cable paid bribes to officials in multiple countries in a scheme that involved a high-level executive of the company and resulted in profits of more than \$50 million worldwide," top federal criminal prosecutor Leslie R. Caldwell said in a statement. "But General Cable also voluntarily self-disclosed this misconduct."

The DOJ said the company caught a 50 percent reduction on its penalty for coming forward voluntarily.

Between 2002 and 2013 the company paid \$13 million to third-party agents and distributors, a portion of which was used to make unlawful payments to obtain business, prosecutors said. The company won \$51 million in profit as a result, they said.

General Cable conceded that, beginning in 2002, its foreign subsidiaries used third-party agents and distributors to make corrupt payments to officials in Angola, Bangladesh, China, Indonesia and Thailand.

The SEC said former Angola senior vice president Karl J. Zimmer was culpable. Zimmer agreed to pay a \$20,000 penalty to the SEC without admitting or denying liability.

By 2011 company insiders became concerned with the conduct, but General Cable did not correct the conduct immediately, prosecutors said. General Cable disclosed potential FCPA concerns to the DOJ and SEC in January 2014, the company said.

"We are a different and better company today as a result of these actions," CEO Michael T. McDonnell said in a statement.

The payments to the SEC include \$55 million in disgorgement a \$6.5 million penalty for accounting violations, the commission said.

The SEC noted also that it found no personal misconduct by former General Cable CEO Gregory B. Kenny and former Chief Financial Officer Brian J. Robinson, who had returned \$3.7 million and \$2.1 million in compensation, respectively.

The company may also face private litigation over the unlawful payments, according to a Dec. 30 release from class action plaintiffs' firm Bronstein Gewirtz & Grossman LLC.

General Cable trades on the New York Stock Exchange with a \$937 million market capitalization.

General Cable is represented by Christian J. Mixter, Eric W. Sitarchuk and Alison Tanchyk of Morgan Lewis & Bockius LLP.

The prosecution is represented by Christopher Cestaro and Lorinda Laryea. The SEC is represented by Rachel Nonaka, Mark Oh, Colin Rand, Eric Hubbs, David Johnson and Olivia Choe.

The SEC administrative proceeding is In the Matter of General Cable, File No. 3-17755.

--Editing by Mark Lebetkin.