

 An official website of the United States government [Here's how you know](#)

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, November 3, 2017

Former CEO of Arthrocare Corporation Sentenced to 20 Years in Prison for Role in \$750 Million Securities Fraud Scheme

The former chief executive officer of ArthroCare Corporation, a publicly traded medical device company based in Austin, Texas, was sentenced today to 240 months in prison for his role in orchestrating a fraud scheme that resulted in shareholder losses of over \$750 million.

Acting Assistant Attorney General Kenneth A. Blanco of the Justice Department's Criminal Division, U.S. Attorney Richard L. Durbin Jr. of the Western District of Texas and Special Agent in Charge Christopher Combs of the FBI's San Antonio Field office made the announcement.

Michael Baker, 58, of Austin, Texas, was sentenced by U.S. District Judge Sam Sparks of the Western District of Texas, who also ordered Baker five years of supervised release following his prison sentence and to pay a fine in the amount of \$1 million and to forfeit \$13.7 million. At the sentencing hearing, the Court found that investors lost more than \$750 million as a result of the fraud scheme. On Aug. 18, after a two-week re-trial, Baker was convicted of one count of conspiracy to commit wire fraud and securities fraud, seven counts of wire fraud, two counts of securities fraud and two counts of making false statements.

Evidence at trial showed that, beginning in 2005 and continuing until 2009, Baker, along with his co-conspirators, masterminded and executed a scheme to artificially inflate sales and revenue through a series of end-of-quarter transactions involving several of ArthroCare's distributors. Baker, along with his co-conspirators, determined the type and amount of product to be shipped to distributors based on ArthroCare's need to meet Wall Street analyst forecasts, rather than distributors' actual orders. Baker and others then caused ArthroCare to "park" millions of dollars' worth of ArthroCare's medical devices at its distributors at the end of each relevant quarter. ArthroCare reported these shipments as sales in its quarterly and annual filings at the time of the shipment, enabling the company to meet or exceed internal and external earnings forecasts.

The trial evidence further showed that ArthroCare's distributors agreed to accept shipment of millions of dollars of products in exchange for special conditions, including substantial, upfront cash commissions, extended payment terms and the ability to return products, allowing ArthroCare to falsely inflate revenue by tens of millions of dollars.

In the case of ArthroCare's largest distributor, DiscoCare, Baker caused ArthroCare to acquire DiscoCare specifically to conceal from the investing public the nature and financial significance of ArthroCare's relationship with DiscoCare. In addition to falsely inflating ArthroCare's revenue, Baker lied when he was deposed by the U.S. Securities and Exchange Commission in November 2009 about ArthroCare's relationship with DiscoCare, the evidence showed.

Baker's earlier conviction was overturned by the U.S. Court of Appeals for the Fifth Circuit, resulting in the retrial.

The sentence imposed on Baker today of 20 years imprisonment is identical to the sentence he received after his first trial.

Co-conspirators David Applegate and John Raffle, both former senior vice presidents of ArthroCare, pleaded guilty

to multiple felonies in 2013 in connection with their participation in the scheme. Co-conspirator Michael Gluk, former chief financial officer of ArthroCare, pleaded guilty to conspiracy to commit wire and securities fraud on June 14, in connection with his participation in the scheme.

On Aug. 29, 2014, Raffle was sentenced to 80 months in prison. On Aug. 29, 2014, Applegate was sentenced to 60 months in prison. Gluk's sentencing is scheduled for Jan. 5, 2018.

This case was investigated by the FBI's San Antonio Field Office. The case is being prosecuted by Securities and Financial Fraud Unit Chief Benjamin D. Singer, Assistant Chief Henry P. Van Dyck and Trial Attorney Caitlin Cottingham of the Criminal Division's Fraud Section.

Topic(s):

Financial Fraud

Press Release Number:

17-1242

Component(s):

Criminal Division

Federal Bureau of Investigation (FBI)

Updated November 3, 2017