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In-House News:

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By Anique Gonzalez

The Tyco International, Ltd.-shareholder class action suit that began five years ago when various executives, including the CEO, were believed to have plundered the company and misled the public about its true worth has reached a tentative $2.975 billion settlement. When and if the settlement is finalized—it still must be sanctioned by U.S. District Judge Paul J. Barbadoro, as well as the largest investors—it will represent the largest payment by a corporation in a securities fraud case.

In order to pay the nearly $3 billion settlement, Tyco said it would create a cash fund from which to reimburse the plaintiffs. A company spokesperson, Paul Fitzhenry, stated that interest would also accrue and be paid. Moreover, he said that half of the money obtained from various lawsuits currently pending against former Tyco CEO L. Dennis Kozlowski and two other former executives would also be turned over.

Tyco, which manufactures products for the electronics, fire and security, healthcare, and engineered products and services fields, became infamous in the early 2000s when it was discovered that under Kozlowski's leadership, the company had inflated profits and hidden several millions of dollars' worth of executive pay—which, the plaintiffs claimed, resulted in losses of $1 billion to $2 billion.

In 2005, Kozlowski and former CFO Mark H. Swartz were charged with and found guilty of grand larceny, securities fraud, conspiracy, and falsifying business records. Throughout the course of the case, prosecutors maintained that Kozlowski and Swartz intentionally stole $600 million from the company in order to finance their posh standards of living. Currently awaiting appeal, both were given prison terms of eight to 25 years. Additionally, Frank Walsh, a former Tyco director, pled guilty to securities fraud for receiving $20 million in secret for his role in a merger. It should be noted that Walsh was not ordered to serve jail time.

According to a Tyco press release, Tyco Chairman and CEO Ed Breen said, "With this settlement, we are taking an important step to resolve our most significant remaining legacy legal matter. Our balance sheet and cash flow remain strong and will allow us to readily absorb these costs while removing much of the uncertainty around legacy legal matters."

Representing the shareholders are attorneys from Milberg, Weiss & Bershad; Schiffrin, Barroway, Topaz & Kessler; and Grant & Eisenhofer who have been involved in settlement talks since the beginning of litigation. However, the talks have picked up speed in the past several months with the assistance of mediators. Judge Barbadoro did not participate in the negotiation talks in order to prevent bias in the event the case went to trial.

Many believe the pressure to reach a settlement is a direct result of Tyco's recent desire to restructure the company, creating three separate business units.

In addition to the class action suit against Tyco, shareholders also filed claims against PricewaterhouseCoopers, Tyco's former auditor. In addition to the claims against the company, the individual who managed the account, Richard P. Scalzo, was banned from any future auditing of corporations by the SEC. While the claims have not yet been resolved, if they are found in favor of the shareholders, the money regained by the plaintiffs will substantially increase.

On the Net

Tyco
www.tyco.com

PricewaterhouseCoopers
www.pwc.com

Schiffrin, Barroway, Topaz & Kessler
www.sbtklaw.com/about_us.cfm