

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98600 / September 28, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-20945

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In the Matter of	:	ORDER APPOINTING FUND
	:	ADMINISTRATOR, SETTING
Surgalign Holdings, Inc. and	:	ADMINISTRATOR’S BOND
Robert P. Jordheim,	:	AMOUNT, AND AUTHORIZING
	:	PAYMENT OF FEES AND
Respondents.	:	EXPENSES
_____	:	

On August 3, 2022, the Commission issued an Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 4C and 21C of the Securities Exchange Act of 1934, and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”)¹ against Surgalign Holdings, Inc. (formerly known as RTI Surgical Holdings, Inc. and RTI Surgical, Inc.) (“RTI”) and Robert P. Jordheim (“Jordheim”) (collectively, the “Respondents”). In the Order, the Commission found that from 2015 through 2019, RTI shipped orders weeks or months before its customers had originally requested delivery, thereby pulling sales forward from future quarters, to address projected quarterly revenue shortfalls. In some instances, RTI did so after requesting and obtaining customer permission; in other instances, RTI shipped orders early without customer approval and then prematurely recognized revenue for the

¹ Securities Act Rel. No. 11088 (Aug. 3, 2022).

sales. In multiple quarters, RTI would not have met its revenue guidance without these undisclosed pull-forwards. RTI and its former senior management, including its CFO until September 2017, Jordheim, did not disclose to investors that RTI's apparent success at achieving its revenue guidance resulted from its reliance on pull-forwards, and they did not disclose the known uncertainty that this practice created for RTI's future revenue streams. In 2020, RTI issued a restatement to correct, among other things, its premature recognition of revenue, in violation of generally accepted accounting principles (GAAP), for orders shipped early to customers without their approval. The Commission ordered the Respondents to pay \$2,075,000.00 in civil money penalties to the Commission. The Commission also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid can be distributed to harmed investors (the "Fair Fund").

The Fair Fund consists of the \$2,075,000.00 paid by the Respondents. The Fair Fund has been deposited in a Commission-designated account at the U.S. Department of the Treasury, and any accrued interest will be added to the Fair Fund.

The Division of Enforcement (the "Division") now seeks the appointment of Epiq Class Action & Claims Solutions, Inc. ("Epiq") as the fund administrator and requests that the administrator's bond be set at \$2,075,000.00. Epiq is included in the Commission's approved pool of administrators.

The Division further requests that the Commission authorize the Office of Financial Management ("OFM"), at the direction of an Assistant Director of the Office of Distributions, to pay the Fund Administrator's fees and expenses from the Fair Fund, so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

Accordingly, IT IS HEREBY ORDERED that:

- A. Epiq is appointed as the Fund Administrator, pursuant to Rule 1105(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans (“Commission’s Rules”);²
- B. Epiq shall obtain a bond in accordance with Rule 1105(c) of the Commission’s Rules,³ in the amount of \$2,075,000.00;
- C. the Fund Administrator will submit invoices to the Commission staff for services rendered, in accordance with Rule 1105(d) of the Commission’s Rules;⁴ and
- D. at the direction of an Assistant Director of the Office of Distributions, OFM is authorized to pay the Fund Administrator’s fees and expenses from the Fair Fund, in accordance with Rule 1105(e) of the Commission’s Rules,⁵ so long as the total amount paid to the Fund Administrator, including the invoice to be paid, does not exceed the total amount of the approved cost proposal submitted by the Fund Administrator.

For the Commission, by the Division of Enforcement, pursuant to delegated authority.⁶

Vanessa A. Countryman
Secretary

² 17 C.F.R. § 201.1105(a).

³ 17 C.F.R. § 201.1105(c).

⁴ 17 C.F.R. § 201.1105(d).

⁵ 17 C.F.R. § 201.1105(e).

⁶ 17 C.F.R. § 200.30-4(a)(17) and 17 C.F.R. § 200.30-4(a)(21)(vi).