



STATE OF CONNECTICUT
ATTORNEY GENERAL WILLIAM TONG

FOR IMMEDIATE RELEASE

Monday, June 24, 2019

DRUG PRICE-FIXING COMPLAINT UNSEALED

Unredacted Emails Provide Evidence of Conspiracy to Inflate Prices and Hinder Competition, Obstruct Justice

(Hartford, CT) – Connecticut Attorney General William Tong today released the full, unredacted complaint against Teva Pharmaceuticals and 19 of the nation's largest generic drug manufacturers after the court granted the states' motion to unseal the complaint.

Among the evidence now public are emails between generic drug manufacturers coordinating their response to a Congressional inquiry, emails enforcing "fair share" and "playing nice in the sandbox" market allocation, "fluff pricing" strategy and other brazen coordination to artificially inflate prices, hinder competition and unreasonably restrain trade across the industry.

The lawsuit was first filed by Connecticut and 43 other states on May 10 in U.S. District Court for the District of Connecticut.

"The evidence is undeniable and the conspiracy is unconscionable. Our lawsuit alleges that generic drug manufacturers engaged in a brazen, industrywide conspiracy to fix prices and allocate market share for drugs that we rely on every day. The evidence demonstrates that they knew what they were doing was illegal, and that's why they sought to mislead Congress, destroyed evidence, and cautioned each other to keep their collusive conversations offline. Our investigation is ongoing and expanding and the evidence released today reinforces the allegations in the complaint," said Attorney General William Tong.

"POLITE F-U LETTERS"

In early October 2014, Heritage Pharmaceuticals received a letter from Congressman Elijah Cummings and Senator Bernie Sanders as part of their joint

investigation into price increases in the generic drug industry. Now emails unsealed by the court show that Heritage outside counsel immediately coordinated a response with counsel for Teva and Mylan.

From: [REDACTED]
To: Jeff Glazer
CC:
BCC:
Subject: RE: Letter to Mr. Glazer, President and Chief Executive Officer Heritage Pharmaceuticals Inc.
Sent: 10/3/2014 03:22:12 PM -0400 (EDT)
Attachments:

Spoke with my colleague [REDACTED] in DC, who is doing the response letter for Mylan. Her husband works for [REDACTED] and he is doing the response for Teva.
They have both been in contact with GPhA on coordinating a response - and the consensus at this point is that the responses will be "polite f-u" letters.
She told me that Teva authorized [REDACTED] to schedule a conference call to coordinate the response and make sure everyone is on the same page.
She said the response can either be a ghost written letter on HPI letterhead or a letter from outside counsel. Just depends on your preference.
I'll keep you updated.

"NO EMAILS PLEASE"

Executives knew their behavior was illegal, and they sought to cover their tracks by limiting communication in writing. Still, ample written evidence of their conspiracy has now been released that show consciousness of guilt.

No emails please. Phone call. [REDACTED] let's discuss.

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"I GUESS THIS IS WHAT THEY CALL CO-OPETITION"

In one series of exchanges, senior executives at Mylan and Sandoz allegedly colluded to divvy up market share for a blood pressure medication. Both companies were the first to launch generic Valsartan on the same day, September 12, 2012. Leading up to the launch, records show company representatives spoke at least 21 times by phone to divvy up the market so that each competitor could obtain roughly 50 percent market share. The conspiracy apparently pleased company executives, including a Sandoz executive who states, "sometimes a little help from our competition is welcome as well." Another senior executive replied: "I guess this is what they call 'co-opetition.'"

982. That same day, Mylan issued a press release announcing that it had received final FDA approval to market generic Valsartan HCTZ. In an internal series of e-mails reacting to this news, a Sandoz employee remarked: "Fyi, good news, Mylan has 180 days as expected." H.F., a senior-most executive of Sandoz Germany responded, "...sometimes a little help from our competition is welcome as well." D.D., a senior-most executive of Sandoz North America, replied:

I guess this is what they call "co-opetition".

HIGH QUALITY COMPETITORS

As Director of National Accounts at Teva, Defendant Nisha Patel's primary responsibility was to implement price increases. The complaint alleges that she did this by systematically conspiring with Teva's competitors and maintained a ranking system of Teva's competitors based on their collusive relationships, with +3 assigned to the most collusive and -3 assigned to the least. Detailed rankings and charts documenting her communication with competitors have been unsealed.

Ranking was done numerically, from a +3 ranking for the "highest quality" competitor to a -3 ranking for the "lowest quality" competitor. The top ranked competitors at that time included the following companies:

Strong Leader/Follower	Point Scale
Mylan	3
Mylan Institution	3
Watson/Actavis	3
Sandoz/Fougera	3
Glenmark	3
Taro	3

The lowest ranked competitors were:

Strong Leader/Follower	Point Scale
Apotex	-3
Zydus	-3

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Product Category	Competitors	Reason for Increase
NABUMETONE TABLETS Total	Watson 26, Glenmark 25, Sandoz 5	Follow 10% below Glenmark. Sandoz also bidding high.
RANITIDINE HCL TABLETS Total	Glenmark 1, Amneal 35, Wockhardt 10?	Follow Glenmark and Amneal increase. 3% below Glenmark.
MOEXIPRIL HCL TABLETS Total	Glenmark 18, Paddock 16	Follow Glenmark increase. 5% lower
MOEXIPRIL HCL/HCTZ TABLETS Total	Glenmark 78, Paddock 2	Follow Glenmark increase. 5% lower
ADAPALENE GEL Total	Glenmark 13, Taro 45	Follow Glenmark increase. 5% lower. Rumors of Taro increase
CEFDINIR ORAL SUSPENSION Total	Lupin 35, Northstar 5, Sandoz 3	Follow Lupin. 8-10% lower
CEFFPROZIL TABLETS Total	Lupin 42, Northstar 10, Sandoz 18	Follow Lupin. 8-10% lower
CEFDINIR CAPSULES Total	Lupin 49, Sandoz 16, Northstar 7	Follow Lupin. 8-10% lower
FLUOCINONIDE OINTMENT Total	Taro 44, Sandoz 1	Raise to follow Taro
FLUOCINONIDE CREAM E Total	Taro 62, Sandoz 10	Raise to follow Taro
FLUOCINONIDE GEL Total	Taro 63, Sandoz 9	Raise to follow Taro
FLUOCINONIDE CREAM Total	Taro 68, Sandoz 1	Raise to follow Taro
CEFAZOLIN ER TABLETS Total	Teva Exclusive	Teva Exclusive
CEPHALEXIN TABLETS Total	Teva Exclusive	Teva Exclusive
CEFADROXIL TABLETS Total	Westward 41	EXCLUDE; ERROR IN SOURCE DATA

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INDUSTRY CODE WORDS REVEALED: PLAYING NICE IN THE SANDBOX, FAIR SHARE, FLUFF PRICING

The unredacted complaint reveals commonly used code words used by coconspirators as they colluded with competitors to divvy up market share and coordinate on price increases in violation of federal antitrust law. These include "fair share," "playing nice in the sandbox," and "fluff pricing."



325. T.C. of Teva did not respond immediately, asking for a little extra time "to figure something out on our side." F.H. responded: "Of course. I will let G[reen]stone know not to do anything crazy."

326. The next day, after some internal conversation at Teva, T.C. agreed to the proposed allocation: "Tell Greenstone we are playing nice in the sandbox and we will let them have [The Wholesaler]."

From: Nisha Patel02
Sent: Thu 7/17/2014 11:36 AM (GMT-05:00)
To: [REDACTED]
Cc:
Bcc:
Subject: RE: Schnucks Paricalcitol CPC (#12201)

Sorry! Had to laugh. In regards to our recent conversation....this is what we see when we provide fluff pricing.
Can't win!

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The complaint is the second to be filed in an ongoing, expanding investigation that the Connecticut Office of the Attorney General has referred to as possibly the largest cartel case in the history of the United States. [The first complaint](#), still pending in U.S. District Court in the Eastern District of Pennsylvania, was filed in 2016 and now includes 18 corporate defendants, two individual defendants, and 15 generic drugs. Two former executives from Heritage Pharmaceuticals, Jeffery Glazer and Jason Malek, have entered [into settlement agreements](#) and are cooperating with the Attorneys General working group in that case.

In addition to Connecticut, Alabama, Alaska, Arizona, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Puerto Rico joined the suit.

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