

From the SDNY Whistleblower Complaint filed August 3, 2018

448. In December 2014, Dr. Borzilleri obtained corroboration of the BFSF scheme during a “one-on-one” meeting at an investor conference with James Schoeneck, the former CEO of Depomed, a mid-capitalization biopharmaceutical company. Depomed marketed Gralise for the treatment of neurologic pain, which competed directly with Defendant Pfizer’s Lyrica.

449. When asked about the competitive justification for coincident severe Gralise and Lyrica price increases, Mr. Schoeneck casually stated “well, PBMs don't make their money off of rebates anymore”. He said, the “PBMs make their money off of service fees” and you just have to “play ball with them” to get a contract. He then stated that the typical contract required paying “3-4% of revenues”, which would include the price increases”.

450. Depomed had just recently announced the successful negotiation of contracts with the three-leading stand-alone PBMs at the time, Express Scripts, CVS Health and Catamaran for both private insurance and Part D formulary access for Gralise. Catamaran was acquired by Defendant UnitedHealth Group in 2015.

451. Both Pfizer’s Lyrica and Depomed’s Gralise are characterized as “traditional” pill drugs in PBM drug formularies, not high-cost “specialty” therapies. The “3-4% of sales” “service fee” contract rate (inclusive of price increases), quoted by Mr. Schoeneck, is consistent with the “traditional” drug rate disclosed by the PhRMA in its November 2017 report.