

**From the SDNY Amended Whistleblower Complaint, filed August 3, 2018**

**THE RECENT INCRIMINATING PCMA INDUSTRY REPORT**

198. In June 2017, the Pharmaceutical Care Management Association (PCMA), the leading PBM industry lobbying organization, released a report, entitled “Increasing Prices Set by Drugmakers Not Correlated with Rebates”.

199. The purpose of the report was to shift blame for severe US drug prices towards the biopharmaceutical industry. However, combined with the above PhRMA report, the PCMA report definitively incriminates both Defendant parties in the “service fee” scheme.

200. PCMA is funded and controlled by the dominant PBM Defendants. Current board members of PCMA include Tim Wentworth (CEO of Defendant Express Scripts), William Fleming (President, Health Services for Defendant Humana), Chris Hocevar (President, Strategy, Segments and Solutions for Defendant Cigna), Randy Hyun (President Pharmacy Management for Defendant Aetna), John Prince (Chief Executive Officer of the OptumRx PBM subsidiary of Defendant UnitedHealth Group) and Jon Roberts (Executive Vice President and Chief Operating Officer of Defendant CVS Health).

201. First, the report corroborated that the PBM Defendants standardly “retain” only a small portion of “manufacturer rebates”; only in the 10% range, and less for many larger private insurance clients.

202. As per Mark Merritt, the President and CEO of the Pharmaceutical Care Management Association (PCMA), in the press release accompanying the report: “PBMs are hired by America’s largest, most sophisticated, health purchasers to reduce costs by, among other things, promoting generics and negotiating rebates and discounts on brand-name drugs. Typically, PBMs pass along 90 percent or more of these savings to plans, which use them to cut premiums, out-of-

pocket costs and other expenses. Many health purchasers require PBMs to pass through 100 percent of rebates.” PCMA Press Release, June 12, 2017.

203. In their analysis of the “Top 200 Brand Drugs”, the PCMA found no correlation between increasing drug prices and the magnitude of “manufacturer rebates”

204. In fact, PCMA reported that “Drugmakers raise prices even when rebates are low in major drug categories”.

205. Specific to this case, PCMA reported that “rheumatoid arthritis drugs (DMARDs) have high price increases, yet rebates on these drugs are low”.

206. As per PCMA, between 2011 and 2016, despite a 125% increase in WAC cost, “rebate levels for these drugs was only 11%” throughout the six year period.

207. In this action, our fraudulent sales estimates for the rheumatoid arthritis drugs, AbbVie’s Humira and Amgen’s Enbrel, are severe due to their wide use and massive uniform price increases.

208. We estimate cumulative fraudulent US Humira and Enbrel sales of \$32 billion and \$19 billion, respectively, since 2006, with about 30% in Medicare Part D.

209. In concluding the report, PCMA even proposed a rationale for the vast manufacturer price increases: “Perhaps to counter shrinking prescription volume for brand drugs”.

210. The PCMA report makes no mention of PBM Defendant compensation from drug manufacturers related to the vast “specialty” drug price increases - from “rebates” , “service fees” or any other sources.

211. The straightforward math from the PhRMA and PCMA reports verifies the fraudulent participation of both Defendant parties in the “service fee” scheme.

212. With the PBM Defendant only keeping about 10% of low (11%) manufacturer

Humira and Enbrel discounts, PBM Defendant compensation from “retained” rebates has remained very low despite massive price increases.

213. On the other hand, PBM Defendant compensation from “service fees”, which are typically all kept by the PBM, has secretly and intentionally skyrocketed along with the massive price increases.