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Attorneys for the Utah Division of Consumer Protection

**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE UTAH DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

PURDUE PHARMA L.P., a Delaware limited partnership; **PURDUE PHARMA INC.**, a New York Corporation; **THE PURDUE FREDERICK COMPANY**, a Delaware corporation; **RICHARD SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities; and **KATHE SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities;

Respondents.

**REQUEST FOR APPROVAL FROM
THE ADMINISTRATIVE LAW JUDGE
TO SERVE SUBPOENAS FOR
DEPOSITIONS ON THIRD PARTIES**

DCP Legal File No. CP-2019-005

DCP Case No. 107102

The Utah Division of Consumer Protection, by and through undersigned counsel, and pursuant to Utah Admin. Code R151-4-502, R151-4-505 and R151-4-514, respectfully requests approval from the Administrative Law Judge to serve subpoenas seeking appearances at depositions and production of documents upon Christopher Neumann, James Heins, and Albert Weinstein. The subpoenas are attached hereto for signature.

RELEVANT PROCEDURAL HISTORY

1. On March 8, 2019, the Division filed a Notice of Agency Action in the above entitled adversary proceeding. After holding a prehearing conference on April 23, 2019, the Presiding Officer on April 23, 2019, entered a Scheduling Order.

2. The Scheduling Order called for the parties to make a good faith effort to agree upon a schedule of interviews and depositions. The Scheduling Order also required the parties to complete discovery by August 28, 2019.

3. On May 7, 2019, Purdue filed Initial Disclosures that identified Bert Weinstein as an individual “expected to have personal knowledge concerning Purdue’s work and policies to comply with various rules and regulations.”

4. On June 26, 2019, the Division contacted counsel for Purdue and counsel for the Sacklers and alerted them that the Division needed to depose Christopher Neumann, James Heins, and Bert Weinstein, as well as other witnesses.

5. On June 28, 2019, counsel for the Sacklers advised that they were not willing to litigate in this Tribunal until such time as the Presiding Officer rules on their pending motion to dismiss for lack of personal jurisdiction.

6. On July 1, 2019, counsel for Purdue advised that it does not represent any of the proposed witnesses but objects to the deposition of Bert Weinstein, Purdue’s former compliance

officer, and Jim Heins, Purdue's former public relations director, on the grounds that testimony of these witnesses would be cumulative of other testimony already available to the Division through the MDL.

7. Division counsel has been in contact with counsel for James Heins and Bert Weinstein. Neither is willing to cooperate absent the issuance of a subpoena. Division counsel has also been in contact with witness Christopher Neumann, who is not represented but who also is unwilling to cooperate absent the issuance of a subpoena. All three reside outside Utah.

8. Division counsel seeks permission from the Presiding Officer to serve the appended subpoenas.

DISCUSSION

As set forth in Utah Admin. Code R151-4-502(1), a party may obtain discovery regarding any matter that is: (1) not privileged; (2) is relevant to the subject matter involved in the proceeding; and (3) relates to a claim or defense of the party seeking discovery or another party. Utah Admin. Code R151-4-602 (2)(d) allows a party to seek a deposition if a witness will be unavailable to testify at the hearing.

Each of the witnesses has information relevant to the Division's claims. Bert Weinstein served as the head of Purdue's compliance organization, and was identified by Purdue as an individual with relevant knowledge. Jim Hein served as Purdue's public relations official, and was involved in misrepresentations made in Utah. Christopher Neumann previously worked for Purdue, and has first-hand knowledge regarding Purdue's conduct regarding dissemination of misrepresentations. Examples of those misrepresentations are set forth in both the Citation and the Division's Initial Disclosures.

As such, the Division's Request for Subpoenas seeks to elicit needed deposition testimony that will be used to prosecute the Division's claims during the October hearing. For the foregoing reasons, the Division respectfully requests that the Presiding Officer execute the subpoenas appended hereto.

DATED this 10th day of July, 2019.

SEAN D. REYES
UTAH ATTORNEY GENERAL

By: /s/ Kevin M. McLean
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mfarris@fnlawfirm.com

Counsel for the Division

CERTIFICATE OF SERVICE

I certify that on July 10th, 2019 I served the foregoing on the parties of record in this proceeding as set forth below:

By electronic mail:

Elizabeth McOmber, Esq.
emcomber@swlaw.com

Katherine Nichols
knichols@swlaw.com

Annika Jones
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Mark Cheffo, Esq.
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Roman Asudulayev
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Ben Albert
balbert@jha.com

Dated this 10th day of July, 2019.

/s/ Susan L. Burke
Susan L. Burke

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**BEFORE THE DIVISION OF CONSUMER PROTECTION
OF THE UTAH DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

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Respondents.

DCP Legal File No. CP-2019-005

DCP Case No. 107102

**SUBPOENA FOR TAKING
DEPOSITION**

TO: Bert Weinstein
34 W. Shore Road
Mountain Lakes, N.J. 07046-1523

X YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case, said method of recording the testimony to be by stenographic and videographic means.

| | |
|----------------------------------------------------|------------------------------------------------|
| PLACE OF DEPOSITION: LOCATION TO BE AGREED UPON | DATE AND TIME: 9:00AM JULY 30, 2019 |
| | METHOD OF RECORDING: STENOGRAPHIC AND VIDEO |

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects): Any documents in your possession reflecting or relating to Respondents

| | |
|--------------------------------------|----------------------------------------|
| PLACE: LOCATION TO BE AGREED UPON | DATE AND TIME: 9:00am July 30, 2019 |
|--------------------------------------|----------------------------------------|

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

| | |
|-----------|----------------|
| PREMISES: | DATE AND TIME: |
|-----------|----------------|

AUTHORITY

The Division of Consumer Protection (“DCP”) issues this subpoena pursuant to Utah Code § 13-2-6(5) and Utah Code § 13-11-16(1). DCP has reason the Deponent has information regarding or relating to Respondents’ conduct that is alleged to have violated the Utah Consumer Sales Practices Act. Utah Code § 13-11-1, *et seq.*

ENFORCEMENT

Except as otherwise agreed by stipulation or ordered, you shall comply with this subpoena and shall appear to testify on the date set forth herein. Failure to comply with this subpoena may result in a contempt or civil enforcement action. Utah Code §§ 63G-4-501, 78B-6-313.

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**BEFORE THE DIVISION OF CONSUMER PROTECTION
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IN THE MATTER OF:

PURDUE PHARMA L.P., a Delaware limited partnership; **PURDUE PHARMA INC.**, a New York Corporation; **THE PURDUE FREDERICK COMPANY**, a Delaware corporation; **RICHARD SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities; and **KATHE SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager, and/or key employee of the above named entities;

Respondents.

DCP Legal File No. CP-2019-005

DCP Case No. 107102

**SUBPOENA FOR TAKING
DEPOSITION**

TO: James Heins
15 Abbey Road
Darien, CT 06820-3833

X YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case, said method of recording the testimony to be by stenographic and videographic means.

| | |
|----------------------------------------------------|------------------------------------------------|
| PLACE OF DEPOSITION: LOCATION TO BE AGREED UPON | DATE AND TIME: 9AM, JULY 31, 2019 |
| | METHOD OF RECORDING: STENOGRAPHIC AND VIDEO |

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects): Any documents in your possession reflecting or relating to Respondents

| | |
|--------------------------------------|--------------------------------------|
| PLACE: LOCATION TO BE AGREED UPON | DATE AND TIME: 9AM, JULY 31, 2019 |
|--------------------------------------|--------------------------------------|

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

| | |
|-----------|----------------|
| PREMISES: | DATE AND TIME: |
|-----------|----------------|

AUTHORITY

The Division of Consumer Protection (“DCP”) issues this subpoena pursuant to Utah Code § 13-2-6(5) and Utah Code § 13-11-16(1). DCP has reason the Deponent has information regarding or relating to Respondents’ conduct that is alleged to have violated the Utah Consumer Sales Practices Act. Utah Code § 13-11-1, *et seq.*

ENFORCEMENT

Except as otherwise agreed by stipulation or ordered, you shall comply with this subpoena and shall appear to testify on the date set forth herein. Failure to comply with this subpoena may result in a contempt or civil enforcement action. Utah Code §§ 63G-4-501, 78B-6-313.

By: _____
Judge Dibbs, Presiding Officer
Date: July __, 2019

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Respondents.

DCP Legal File No. CP-2019-005

DCP Case No. 107102

**SUBPOENA FOR TAKING
DEPOSITION**

TO: Christopher Neumann
12 Cassway Road
Woodbridge, CT 06525-1215

X YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case, said method of recording the testimony to be by stenographic and videographic means.

| | |
|----------------------------------------------------|------------------------------------------------|
| PLACE OF DEPOSITION: LOCATION TO BE AGREED UPON | DATE AND TIME: 9AM, AUGUST 1, 2019 |
| | METHOD OF RECORDING: STENOGRAPHIC AND VIDEO |

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects): Any documents in your possession reflecting or relating to Respondents

| | |
|--------------------------------------|---------------------------------------|
| PLACE: LOCATION TO BE AGREED UPON | DATE AND TIME: 9AM, AUGUST 1, 2019 |
|--------------------------------------|---------------------------------------|

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below:

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AUTHORITY

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By: _____
Judge Dibbs, Presiding Officer
Date: July __, 2019