

Novartis Pharmaceuticals Agrees To Pay \$678 Million To Settle Shepherd, Finkelman, Miller & Shah, LLP False Claims Act Qui Tam Case

Novartis Pharmaceuticals Agrees to Pay \$678 Million to Settle Allegations of Illegal Kickbacks Involving Nine of the Company's Drugs



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Shepherd, Finkelman, Miller & Shah, LLP →

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NEW YORK, July 1, 2020 /PRNewswire/ -- James E. Miller of Shepherd, Finkelman, Miller & Shah, LLP ("SFMS")(www.sfmslaw.com), Lead Counsel for Plaintiff-Relator, Oswald Bilotta (the "Relator" or "Whistleblower"), announced today that Novartis Pharmaceuticals Corporation ("Novartis") has agreed to settle alleged violations of the False Claims Act based on a complaint filed by the Whistleblower in 2011 asserting that Novartis used "speaker programs" to pay physician speakers unlawful compensation in violation of the False Claims Act, 31 U.S.C. §§ 3729-3733, and the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b.

The Whistleblower is represented by Shepherd, Finkelman, Miller & Shah, LLP ("SFMS") (www.sfmslaw.com), and its co-counsel, Eric L. Young of McEldrew Young (https://www.mcelandrewyoung.com), and John Mininno (john@min-law.com)

"I would like to take this opportunity to express my sincere appreciation for the courageous actions of Mr. Bilotta in stepping forward to challenge Novartis' use of 'speaker programs' and other tactics to influence the prescription writing of physicians with respect to a number of its

drugs," said James E. Miller (jmillersfmslaw.com).

Mr. Miller also stated: "In addition to thanking the entire SFMS team that worked on this case, including Laurie Rubinow, Natalie Finkelman Bennett, Jillian M. Boyce, Jonathan Dilger, Betsy Ferling Hitriz, Nicolas Lussier, Bruce Parke, , James C. Shah and Nathan Zipperian, as well as our highly skilled co-counsel, Eric L. Young, John Mininno and Joseph Trautwein, I would like to take this opportunity to state that it was a pleasure and honor to work closely with the Office of the United States Attorney for the Southern District of New York, in resolving this important matter. I would like to specifically thank Jeannette A. Vargas, Pierre G. Armand, Monica Folch, Jacob T. Lillywhite, Jennifer A. Jude and Jacob M. Bergman of the U.S. Attorney's Office for the Southern District of New York, for their diligence, excellent work and perseverance on behalf of the United States of America. I also would like to thank Kathryn M. Heim Harris and Andrew J. Gropper, Special Assistants Attorney General of the New York Medicaid Fraud Control Unit, for their persistence and hard work on behalf of the various states participating in the settlement."

According to the complaint, physicians who participated in alleged sham speaker programs wrote prescriptions for several drugs – Lotrel, Valturna, Starlix, Tekturna, Tekturna HCT, Diovan, Diovan HCT, Exforge and Exforge HCT - that were filled at pharmacies across the country. After filling and dispensing the prescriptions, the pharmacies then submitted claims for reimbursement to various government-funded health care programs. The pharmacies' claims resulted in payments by the government for prescriptions that were allegedly induced through fraud, *i.e.*, Novartis' alleged illegal payments to physicians who wrote the prescriptions. Since Novartis' actions allegedly caused the submission of false claims to the government via the dispensing pharmacies, those actions were alleged to constitute violations of the False Claims Act and the Anti-Kickback Statute ("AKS"), 42 U.S.C. § 1320a-7b, which criminalizes, among other things, "knowingly or willingly" offering or paying a person "remuneration," in the form of kickbacks, bribes, or rebates, to "induce" that person to "recommend" the purchase of a drug covered by a "Federal health care program." 42 U.S.C. § 1320a-7b(b)(2).

Background

SFMS filed the original *qui tam* complaint on behalf of Mr. Bilotta in 2011. Among other things, the complaint alleged that Novartis provided bogus honoraria or speaking fees to physicians for participation in numerous sham speaker programs in connection with the drugs at issue. In 2013, the United States and the State of New York intervened in the lawsuit. Novartis' attempts

to dismiss the Whistleblower's case, as well as that of the United States and State of New York, were unsuccessful, and counsel for the Whistleblowers engaged in substantial discovery, including the review of millions of pages of documents, scores of depositions of Novartis employees and former employees and expert discovery. The case settled on the eve of trial and resulted in the negotiation of an agreement requiring Novartis to engage in a number of important changes in practice with respect to its speaker programs.

Settlement

"We believe that this settlement will help to ensure that when a physician chooses to prescribe a drug for his or her patient, that choice will be motivated solely by the best interests of the patient and not tainted by any improper financial considerations," said James E. Miller. Laurie Rubinow also added, "We were inspired by the level of our client's commitment to ensuring that Novartis was held to account for its alleged misconduct. Today's result is also a victory for the American taxpayers who are the ultimate victims when unscrupulous individuals and companies defraud the government, oftentimes with impunity. This significant settlement on behalf of the United States and the participating states, including the State of New York, results in extremely meaningful changes in the manner in which Novartis will conduct business going forward."

As SFMS's Managing Partner, James E. Miller has a distinguished track record of success. Mr. Miller has tried over thirty cases to successful verdict as lead counsel, and has recovered more than \$3 billion dollars for his clients. SFMS represents whistleblowers throughout the United States and on a global basis. Many whistleblower cases are brought under the False Claims Act, which allows a private individual, known as a relator, to file a lawsuit on behalf of the United States government against a company that has perpetrated a fraud against the government. If a relator successfully recovers funds on behalf of the government, he or she may receive a reward of up to thirty percent (30%) depending on the circumstances of the case. SFMS has taken the lead in prosecuting some of the most important and significant cases in the United States regarding "speaker programs" and efforts by pharmaceutical companies and medical device manufacturers to influence the behavior of physicians, prescribers and other providers through allegedly unlawful payments.

Case citation: *United States ex rel. Bilotta v. Novartis Pharmaceuticals Corp.*, No. 1:11-cv-0071-PCG (S.D.N.Y.)

About SFMS

Shepherd, Finkelman, Miller & Shah, LLP (www.sfmslaw.com) has obtained billions of dollars in recoveries for its clients since its founding in 2002. Our attorneys have attended some of the best law schools in the country and have extensive experience in litigating cases against large and powerful companies. We maintain eight offices in the United States and two offices in Europe to serve our worldwide clients. SFMS has handled some of the most significant whistleblower cases in the United States and is increasingly recognized as one of the "go to" law firms when a whistleblower case needs to be litigated to trial.

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