

February 16, 2022

The Honorable Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Dear Attorney General Garland:

In October 2020, the Department of Justice (DOJ) announced that it had resolved its civil and criminal investigations into Purdue Pharma for fueling the devastating opioid epidemic that has, for decades, taken lives and ravaged communities across the nation. The next month, Purdue pleaded guilty to three felonies related to its sale and marketing of OxyContin. This settlement and plea are little solace for the millions who lost their lives and livelihoods at the hands of Purdue and the individuals at its helm—the Sackler family.

While the Department also reached a civil settlement with certain individual members of the Sackler family for their roles in causing this crisis, real justice in this case means holding individual lawbreakers criminally accountable. DOJ left that door open with respect to the Sacklers, as the Department specifically reserved the right to bring charges against individuals when it settled with Purdue. To that end, we write to encourage the Department to review the information in its possession and investigate whether members of the Sackler family engaged in criminal conduct in connection with Purdue’s admitted criminal wrongdoing, before any relevant statutes of limitations expire. We also write to urge DOJ to investigate whether any of their subsequent conduct warrants criminal investigation as well.

As you well know, the opioid epidemic continues to take a staggering human and economic toll. There can be no doubt that this epidemic was exacerbated by Purdue and the decades of criminal conduct it engaged in while owned and operated by the Sackler family. According to the Department’s settlement agreement with the Sacklers, between 1996 and 2018, “members of the Sackler family directed and oversaw Purdue’s development, manufacture, marketing, promotion, sales, and distribution of opioids, including OxyContin and interactions with the Drug Enforcement Administration and the Food and Drug Administration, the Centers for Medicare & Medicaid Services, and the Department of Health and Human Services.”¹

It was, after all, the Sacklers who—faced with declining sales in the mid-2000s—employed various business tactics for Purdue to “turbocharge” its OxyContin sales all while OxyContin was driving abuse and addiction and hundreds of thousands of Americans had overdosed on the

¹ U.S. Dep’t of Justice, Sackler Settlement Agreement, Addendum A to Settlement Agreement (Oct. 21, 2020) at 2-3, available at <https://www.justice.gov/opa/press-release/file/1329736/download> [hereinafter Sackler Settlement Agreement].

drug.² Even after Purdue pleaded guilty to federal criminal charges in 2007 for having misled doctors and regulators about the risks of OxyContin, these aggressive tactics continued. In the Department’s recent civil settlement, DOJ alleged that certain members of the Sackler family “knew or should have known” that the “aggressive marketing program” Purdue later developed had “thousands of prescribers . . . prescribing opioids that were not always for a medically accepted indication[,] were sometimes unsafe, ineffective, and medically unnecessary[,] and that were sometimes diverted for uses that lacked a legitimate medical purpose.”³

While Purdue, under Sackler leadership, sold and marketed opioids in such a manner that it later agreed to plead guilty, the Sacklers themselves sought to protect their assets and shield their fortunes from investigations at the state and federal levels that could—and would—lead to settlements and judgments. To do so, the Attorney General for the State of New York alleged the Sackler family “used a web of corporate entities to transfer funds from [Purdue] to themselves.”⁴ These transfers were alleged to be fraudulent “because the [Sacklers] knew Purdue was insolvent,”⁵ but nonetheless continued to transfer “over \$10 billion” from Purdue to themselves.⁶ In one instance, according to the New York Attorney General, Mortimer D.A. Sackler—then serving on Purdue’s Board of Directors—alone “transferred millions of dollars from trust companies . . . to himself” less than two years after Purdue first pleaded guilty.⁷ This purported conduct warrants investigation, too, under federal fraudulent transfer laws, including 18 U.S.C. § 152(7).

That the Department has taken steps to hold Purdue criminally accountable for its actions, but not the Sacklers, suggests dissimilar treatment for similar—or even the same—unlawful conduct. For decades, the Sacklers have put themselves and their profits before people, and, under their leadership, Purdue committed crimes that helped fuel the opioid epidemic. If members of the Sackler family have any criminal exposure as the individuals who directed and oversaw Purdue before, during, and after Purdue engaged in the criminal conspiracies to which it pleaded guilty, the Department must also take steps to hold the Sacklers accountable before applicable statutes of limitations have run.

Thank you for your time and consideration.

² See *id.*; see also Michael Forsythe & Walt Bogdanich, *McKinsey Settles for Nearly \$600 Million Over Role in Opioid Crisis*, N.Y. TIMES (updated Nov. 5, 2021), <https://www.nytimes.com/2021/02/03/business/mckinsey-opioids-settlement.html>; Michael Forsythe & Walt Bogdanich, *McKinsey Advised Purdue Pharma How to ‘Turbocharge’ Opioid Sales, Lawsuit Says*, N.Y. TIMES (Feb. 1, 2019), <https://www.nytimes.com/2019/02/01/business/purdue-pharma-mckinsey-oxycontin-opioids.html>.

³ Sackler Settlement Agreement, *supra* note 1, at 1-2.

⁴ Jared S. Hopkins & Sara Randazzo, *Purdue’s Sackler Family Accused of Fraud in Transfers of Opioid Profits*, WALL ST. J. (updated Mar. 28, 2019), <https://www.wsj.com/articles/new-york-attorney-general-files-new-allegations-against-opioid-maker-purdue-pharma-and-sackler-family-owners-11553781600>.

⁵ *Id.*

⁶ Jef Feeley, Jeremy Hill, and Valerie Bauman, *Purdue Creditors Zero In on Sackler Messages From a Decade Ago*, BLOOMBERG (Dec. 26, 2020), <https://www.bloomberg.com/news/articles/2020-12-26/purdue-creditors-zero-in-on-sackler-messages-from-a-decade-ago>.

⁷ Richard Gonzales, *New York AG Says Sacklers Transferred \$1B From Pharma Accounts to Themselves*, NPR (Sept. 13, 2019), <https://www.npr.org/2019/09/13/760688886/new-york-ag-says-sacklers-transferred-millions-from-pharma-accounts-to-themselve>.

Sincerely,



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