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June 15, 2020

By Email

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Re: OxyContin Statement in May 4, 2020 Article

Dear Tom:

I write in response to your May 21 letter, which provided more detailed support for the contention of your clients, members of the Sackler family, that the reference to Purdue Pharma's having "addicted millions" in a May 4, 2020 staff article was incorrect. Having carefully reviewed the arguments in your letter and conducted further reporting, we continue to believe the statement is accurate.

Ironically, the passage your clients so vigorously dispute was rather exculpatory of Purdue Pharma (and by extension, the Sacklers). The full paragraph reads:

It is one of the biggest stories of our time and it was hiding in plain sight: How did the opioid epidemic overtake America? *The prevailing narrative offered a too-easy scapegoat.* Purdue Pharma in the 1990s unleashed an ostensible wonder drug, OxyContin, and addicted millions. But the epidemic took off after Purdue was brought to heel and fined \$600 million. If not Purdue, who drove the epidemic? And why didn't anyone stop them?¹

It is clear in context that the statement your clients are challenging – that Purdue Pharma, through OxyContin, "addicted millions" – was presented not as

¹ <https://www.washingtonpost.com/pr/2020/05/04/read-the-washington-post-stories-that-won-2020-pulitzer-prize/?arc404=true> (emphasis added).

unassailable fact, but as the “prevailing narrative,” which, if accepted, leads to a “too-easy scapegoat.” The language does not endorse the validity of this “narrative”; if anything, the reference to Purdue Pharma as a “too-easy scapegoat” suggests the opposite. In any event, the notion that Purdue Pharma deserved the lion’s share of blame for the opioid epidemic was, undeniably, a widely prevalent narrative before the Post’s coverage drew public attention to the many others who bore responsibility for the crisis – including other pharmaceutical companies, distributors, the medical profession, and government agencies, and other institutions. According to this narrative, Purdue Pharma was indeed seen as guilty of addicting millions – if not to OxyContin directly (which we also believe is supported), then to other opioids as a result of changes in prescription practices and an emphasis on undertreated pain stemming largely Purdue Pharma’s advocacy and marketing.²

We have also concluded that a correction is unwarranted for a second, independent reason: our review, both before and after your May 21 submission, determined that the statement “addicted millions” is very likely true, and certainly not demonstrably false (as would be required to support a correction). As my May 7 email noted, the challenged statement was phrased very broadly – it was not limited to the use of OxyContin in any particular country, it was not limited by time period (contrary to the supposition in your letter that 2011 is “years *after* the Post now purports OxyContin ‘addicted millions’”), and it was not limited to cases of iatrogenic addiction as opposed to illicit or off-label use. By all accounts, addiction resulting from diversion and misuse was a hugely important element of the opioid crisis; it would be absurd not to count those cases toward the overall number of people who became addicted.

Because the statement was not limited by time or place, the sole question for determining the accuracy of “addicted millions” is whether, between the 1990s and the present, “millions” of people became addicted to opioids – whether through iatrogenic addiction or some other way – *as a result of* Purdue

² For examples of this “prevailing narrative,” including the claim about Purdue Pharma’s responsibility for addicting “millions,” see, e.g., Bethany McLean, “‘We Didn’t Cause the Crisis’: David Sackler Pleads His Case on the Opioid Epidemic,” *Vanity Fair* (June 19, 2019) (“Since OxyContin came on the market in 1996, more than 400,000 Americans have died from opioid overdoses – including some 200,000 from prescription opioids. Millions more continue to struggle with addiction”), at <https://www.vanityfair.com/news/2019/06/david-sackler-pleads-his-case-on-the-opioid-epidemic>; Patrick Radden Keefe, “The Family That Built an Empire of Pain,” *The New Yorker* (Oct. 23, 2017) (“The Sackler dynasty’s ruthless marketing of painkillers has generated billions of dollars – and millions of addicts.”), at <https://www.newyorker.com/magazine/2017/10/30/the-family-that-built-an-empire-of-pain>.

Pharma's introduction of OxyContin.³ We acknowledge that that question involves a degree of uncertainty. Presumably, even Purdue Pharma does not claim to know exactly how many people used OxyContin illegally over the decades, or how many of those people eventually struggled with addiction. Our best estimate, however, continues to be that "millions" is correct. My May 7 email, which was based on a review overseen by the Post's investigative editor, Jeff Leen, cited some of the key articles and data supporting that conclusion.

In response, your May 21 letter went to great lengths to attack the quality and credibility of those sources – particularly, a 2009 medical journal article by Dr. Art Van Zee, available on the National Institutes of Health website, which found a massive rise in OxyContin abuse in the 2002-2004 time period. Our reporting indicates that Van Zee's article is considered groundbreaking and authoritative, and remains widely cited. Nevertheless, much of your letter is devoted to belittling Van Zee's work. Though we do not believe we must defend every point of the article, we address your main points of criticism below:

- Your letter attacks Van Zee's claim that "by 2002, OxyContin accounted for 68% of oxycodone sales," arguing that Van Zee's source for that figure (a 2006 article by Leonard Paulozzi) was unreliable, with the result being "a falsehood compounding a falsehood." We are not in a position to evaluate Paulozzi's work, and would simply point out that OxyContin's exact market share in 2002 is ultimately of secondary importance. What matters is not the relative size of its market share in any particular year, but whether, over a 24-year-period, enough people were using the drug – including illegally – to eventually add up to a number of addicts in the millions.
- You assert that my May 7 email improperly equated "nonmedical use" with "addiction" by citing a National Survey on Drug Use and Health finding that "[l]ifetime nonmedical use of OxyContin increased from 1.9 million to 3.1 million people between 2002 and 2004, and in 2004, there were 615,000 new nonmedical users of OxyContin." In fact, I acknowledged that "not all misuse amounts to addiction." The fact of 3.1 million "nonmedical" users as of 2004 was noteworthy not because

³ In our view, the statement in the May 4 article plausibly includes cases where people became addicted to opioids *other* than OxyContin as a result of Purdue Pharma's actions, such as its marketing strategies and overall impact on prescription opioid practices. The Post's reporting located many individuals who were legitimately prescribed OxyContin early in the opioid era and eventually became addicted to other drugs, like heroin or fentanyl. Some of those users, like Sidney Caleb Lanier of Big Springs, Texas, regard OxyContin as the "gateway drug" that led them down a path toward long-term opiate addiction. To be clear, though, our assessment that "millions" is accurate does not depend on counting such cases.

they were all addicts, but because a figure of that magnitude for *just one year* “strongly suggests” that the total number of people who developed addiction problems over nearly a quarter-century would reach into the millions. That would be true even if only a modest percentage of those nonmedical users became addicted.

- You dispute the finding in Van Zee’s 2009 article that “by 2004, OxyContin had become the most prevalent prescription opioid abused in the United States,” arguing, *inter alia*, that “there was no zip code in which OxyContin was the sole drug abused.” Plainly, however, OxyContin need not have been the “sole” drug abused, or even the leading one, in any particular zip code or in the country as a whole to support an aggregate number of users totaling “millions,” particularly over a much longer time horizon. If 10 million people are addicted to Drug A and 3 million to Drug B, and Drug A is more prevalent in every single zip code than Drug B, it would still be accurate to say that “millions” are addicted to Drug B.
- You assert that a statistic cited in my May 7 email about a nearly tenfold increase in OxyContin prescriptions for the treatment of noncancer-related pain – from 670,000 in 1997 to 6.2 million in 2002, according to a 2003 GAO report cited by Van Zee – does not support any conclusions about addiction, and argue that the GAO report actually “demonstrated that prescription opioids serve[d] a critical need for pain management.” You likewise contend that the shift in using opioid analgesics to treat non-cancer pain occurred “across the entire industry,” and was an “important step to address the critical issue” of undertreated pain. Again, though, none of that disproves the number of people who became addicted. The Post has never disputed that prescription opioids can meet legitimate pain management needs. But the fact of 6.2 million prescriptions – for one year alone, and excluding certain types of cases as well as all illicit use – sheds light on the sheer scale of OxyContin use at the time. Given the National Institute of Drug Abuse’s estimate that 8 to 12 percent of people who are *prescribed* opioids develop an opioid use disorder,⁴ and that there is a still greater risk of abuse when such pills are taken without a prescription, we regarded that 6.2 million figure as a relevant data point. Nor does it need to be precisely correct to support an inference of “millions” over a much longer time period and broader array of circumstances.

⁴ <https://www.drugabuse.gov/drug-topics/opioids/opioid-overdose-crisis>

In a further effort to evaluate the issues raised in your May 21 letter, the Post assigned Sari Horwitz – a Pulitzer Prize-winning reporter with more than three decades of experience, who has covered the opioid story but had no role in the May 4 article – to vet the language in question with experts on the opioid epidemic. Ms. Horwitz spoke with five experts – two academicians, one former drug policy advisor in the Bush and Obama administrations, and two former senior government officials who were directly involved in efforts to contain the opioid epidemic. All five said they believe the paragraph at issue is accurate. Two of them agreed to be identified by name in this response: Dr. Keith Humphreys, a Stanford University professor who served as a drug policy adviser in the George W. Bush and Obama administrations, and Dr. Adriane Fugh-Berman, a professor in the Department of Pharmacology and Physiology at Georgetown University Medical Center.⁵

Dr. Humphreys provided a detailed statement which I am attaching in full as Exhibit A. He explains his belief that the challenged language is accurate on two separate grounds: (1) in his view, it is a fair description of the “prevailing narrative” surrounding the origins of the opioid epidemic, as exemplified by influential books like *Pain Killer*, by Barry Meier of The New York Times; and (2) it is also “quite likely,” in his view, “that ‘millions’ of Americans did in fact become addicted to OxyContin.” In support of the latter conclusion, Dr. Humphreys cited not only the Van Zee article discussed above – which, notwithstanding your criticisms, he regards as a “widely-cited, peer-reviewed paper” – but also a peer-reviewed 2005 article in the *Journal of Pain* by Dr. Theodore Cicero and others, which found that OxyContin had become the most prevalent opioid abused in America.⁶ Dr. Humphreys concludes that “this is not just about narrative, it is also about the reality of a particular medication causing enormous suffering to millions of Americans.”

Dr. Fugh-Berman, the Georgetown University Medical Center professor, also reviewed the passage in question. “I think that’s perfectly accurate,” she told Ms. Horwitz in an interview (the accuracy of which she later confirmed in writing). “Purdue’s marketing tactics resulted in millions of people becoming addicted to opioids. There is no question of that.” Dr. Fugh-Berman added that

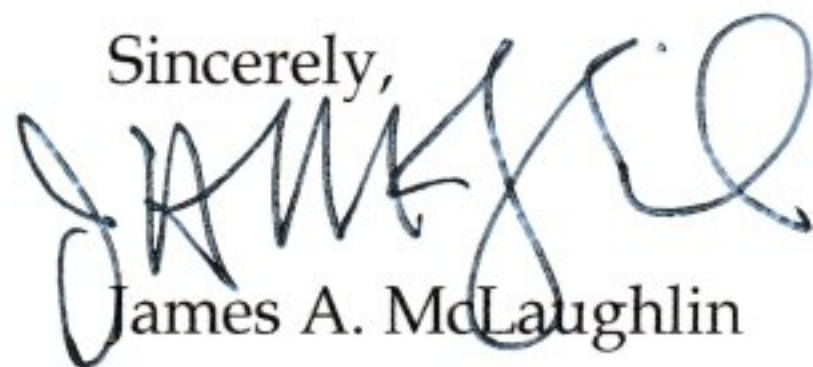
⁵ Dr. Fugh-Berman has been retained as an expert for plaintiffs in opioid litigation. We are disclosing that affiliation, but we do not believe it precludes her from speaking to the accuracy of factual matters within her area of expertise. As for Dr. Humphreys (who has occasionally contributed articles to the Post), he has no connection to either side in the opioid litigation. Highly respected, Dr. Humphreys has been asked to serve as an expert by both sides – including pharmaceutical companies – but has declined all such offers.

⁶ Cicero TJ, Inciardi JA, Muñoz A. Trends in abuse of Oxycontin and other opioid analgesics in the United States: 2002-2004. *J Pain*. 2005; 6(10):662-672. doi:10.1016/j.jpain.2005.05.004.

she believes "millions" who developed opioid use disorder began with OxyContin.

Finally, as I mentioned, Ms. Horwitz interviewed three other experts who believe the statement is correct, including two former senior government officials. One of the former officials said: "There is no way that is a false statement. Purdue unleashed OxyContin and then addicted millions by its narrative, its playbook and its marketing strategy."

In sum, after a thorough review of the detailed submission you provided on behalf of your clients, we respectfully disagree that a correction is necessary. We believe the challenged statement is accurate both as a summary of the "prevailing narrative" and on its own merits.

Sincerely,

James A. McLaughlin

Copies:

Jeffrey Leen
Kalea S. Clark, Esq.

EXHIBIT A

Statement of Dr. Keith Humphreys

“I have examined this quote carefully:

‘It is one of the biggest stories of our time and it was hiding in plain sight: How did the opioid epidemic overtake America? The prevailing narrative offered a too-easy scapegoat. Purdue Pharma in the 1990s unleashed an ostensible wonder drug, OxyContin, and addicted millions. But the epidemic took off after Purdue was brought to heel and fined \$600 million. If not Purdue, who drove the epidemic? And why didn’t anyone stop them?’

There are two questions of fact here: (1) Were Purdue Pharma and OxyContin the focus of the “prevailing narrative” about the origins of the opioid epidemic?, and, (2) Did “millions” of people become addicted to OxyContin? Let me address each in turn.

1. There is no doubt at all that Purdue Pharma was at the heart of the prevailing narrative about the opioid epidemic. The company and its product were the focus of the highest profile book of the early years of the epidemic: New York Times reporter Barry Meier’s Pain Killer. Purdue was also the focus of countless other stories by journalists, and was the subject of one of the highest profile corporate malfeasance cases in history (not just in opioid-related litigation, but in anything). In years of working in state legislatures and in the White House on the opioid issue, I heard policy makers and citizens invoke Purdue Pharma’s name more times than I can remember. Just as importantly, I almost never heard anyone discuss the role of Johnson & Johnson, Teva, Cardinal, McKesson, and the other industry players until the last few years as states, cities, and counties began suing them.
2. Turning from what the prevailing narrative was to whether or not it was accurate, it’s quite likely that “millions” of Americans did in fact become addicted to OxyContin. As noted in Dr. Art Van Zee’s widely-cited, peer-reviewed, paper (“The promotion and marketing of OxyContin: Commercial triumph, public health tragedy” in *The American Journal of Public Health*), even by 2004, a total of 3.1 million Americans admitted that they had misused OxyContin at some point, and of course that number continued to increase in ensuing years. Moreover, Van Zee was citing data from the federal government’s National Survey on Drug Use and Health, which is known to significantly understate the number of people who have misused opioids. Using a different data source, another widely-cited, peer-reviewed paper, by Theodore Cicero and colleagues (“Trends in abuse of OxyContin and other opioid analgesics in the United States: 2000-2004” in *The Journal of Pain*) reported that OxyContin was the most widely abused opioid in the United States. So, this is not just about narrative, it is also about the reality of a particular medication causing enormous suffering to millions of Americans.

I hope the information above is helpful. Please contact me if I can be of further assistance.”