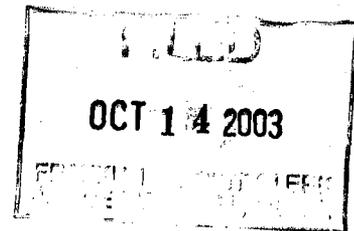


COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 03-CI-1134
DIVISION II



COMMONWEALTH OF KENTUCKY,
EX. REL. ALBERT B. CHANDLER III, ATTORNEY GENERAL

PLAINTIFF

vs.

AMENDED COMPLAINT

ABBOTT LABORATORIES, INC.

DEFENDANT

Serve: CT Corporate System, registered agent
Kentucky Home Life Building
Louisville, KY 40202

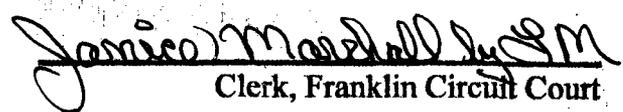
and via Kentucky Secretary of State
Pursuant to KRS 454.210

Comes the Plaintiff, Commonwealth of Kentucky, by its Attorney General,
Albert B. Chandler III, and for its Complaint against the Defendant Abbott Laboratories,
Inc. (hereafter the "Defendant"), alleges as follows:

I. INTRODUCTION

1. The Defendant has engaged in fraudulent, unfair, false, misleading and deceptive acts and practices in the pricing and marketing of its prescription drug products. The Defendant's fraudulent pricing and marketing of its prescription drugs, including, but not limited to, those identified in Exhibit 1, have impacted elderly, disabled and poor Kentucky citizens covered by the Commonwealth of Kentucky's Medicaid program and Federal Medicare program (hereafter "Medicare"), by causing the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries to pay grossly excessive prices for the Defendant's prescription drugs.

A Copy Attest


Clerk, Franklin Circuit Court

2. Fair pricing of prescription drugs is of paramount concern to the Commonwealth of Kentucky and its citizens. The exponential increase in prescription drug costs in recent years has contributed to a health care crisis within the Commonwealth of Kentucky that requires action to ensure fair dealing between the Defendant and the Kentucky Medicaid program covering senior citizens, the disabled, the poor, and Kentucky Medicare, Part B beneficiaries.

3. Plaintiff, Commonwealth of Kentucky, by its Attorney General, Albert B. Chandler III, seeks to permanently enjoin the Defendant from continuing to engage in fraudulent, unfair, false, misleading and deceptive drug pricing acts and practices, to recover damages and/or restitution on behalf of the Commonwealth of Kentucky, damages and/or restitution on behalf of Kentucky Medicare, Part B beneficiaries, and to impose civil penalties and punitive damages against the Defendant for its fraudulent, illegal and erroneous pricing and marketing practices.

II. PARTIES

4. Plaintiff, Albert B. Chandler III, is the duly elected Attorney General of the Commonwealth of Kentucky and is authorized pursuant to Kentucky Revised Statutes (KRS) Chapter 15.060, Chapter 367, and Kentucky common law, including the Attorney General's *parens patriae* authority, to bring this action on behalf of the Commonwealth of Kentucky and its citizens. The Attorney General has determined that these proceedings are in the public interest.

5. Defendant Abbott Laboratories, Inc., is an Illinois corporation with its principal offices located in Abbott Park, Illinois. At all relevant times material to this action, Defendant transacted business in the Commonwealth of Kentucky by, including,

but not limited to, the marketing, distribution and selling of pharmaceutical drug products, directly or indirectly, to wholesalers, retailers, Medicaid providers and Medicare, Part B beneficiaries in the Commonwealth of Kentucky.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction over the Plaintiff, Commonwealth of Kentucky's claims as they involve claims arising exclusively under Kentucky statutes, Kentucky common law and the parens patriae authority of the Attorney General to act on behalf of the Commonwealth of Kentucky and its citizens. The Defendant has designated CT Corporate Systems as its registered agent authorized to accept service of process in the Commonwealth of Kentucky with the Kentucky Secretary of State. Therefore, pursuant to KRS 454.210 (3)(a), service of process may be made upon CT Corporate Systems directly, and via the Kentucky Secretary of State.

7. Venue is proper in Franklin County, Kentucky, pursuant to KRS 452.460 because the injuries to the Plaintiff occurred in Franklin County, Kentucky, and pursuant to 367.190 (1) because the unlawful method, acts and/or practices of the Defendant were committed in Franklin County, Kentucky.

IV. FACTUAL BACKGROUND

A. Government Health Plans

1. The Kentucky Medicaid Program

8. The Kentucky Medicaid program is a joint state and federal program which pays for medical care, including prescription drug benefits, for Kentucky's poor citizens. Medicaid currently covers approximately 669,000, or one (1) in six (6), Kentuckians.

Twenty percent (20%) of Kentucky's entire state budget goes to the Medicaid program. Prescription drug benefits are the largest component of the Kentucky Medicaid budget. Since 1995, the cost of prescription drugs to the Kentucky Medicaid program has increased approximately 300% from total annual costs of \$237,102,055 in 1995 to \$693,529,535 for fiscal year 2002. Kentucky consistently ranks near the top nationally in the number of prescriptions obtained per person annually. The number of Kentuckians covered by Medicaid and the costs associated with providing care for them continue to increase annually, while the Kentucky Medicaid Program's ability to keep pace with these increases has been diminished due to state budget shortfalls.

9. The Kentucky Medicaid program is administered by the Kentucky Cabinet for Health Services. Kentucky Medicaid reimburses medical providers ("providers"), including pharmacists and physicians, and otherwise pays for covered drugs dispensed and administered to Medicaid recipients pursuant to statutory formulas.

10. KRS 205.560 and Kentucky Administrative Regulations 907 KAR 1:018 establish the formulas used by Kentucky Medicaid to reimburse providers for prescription drugs dispensed or administered to Medicaid recipients by Kentucky Medicaid providers.

11. At all times material hereto prior to April 1, 2003, pursuant to 907 KAR 1:021, Kentucky Medicaid reimbursed providers the lesser of (a) The Federal maximum allowable cost (FMAC), plus a dispensing fee, (b) average wholesale price ("AWP") of the drug minus 10%, plus a dispensing fee, or (c) usual and customary billed charges. On April 1, 2003, 907 KAR 1:018E became effective, replacing 907 KAR 1:021. . It provides reimbursement to Kentucky Medicaid providers at the lesser of (a) The federal

upper limit, (b) State maximum allowable cost, plus a dispensing fee, (c) AWP minus 12%, plus a dispensing fee, or (d) usual and customary billed charges. Many state Medicaid programs use similar reimbursement formulas based upon AWP.

12. Upon information and belief, at all relevant times material to this action, the Defendant was aware of the Commonwealth of Kentucky's Medicaid drug reimbursement formulas.

2. Medicare

13. Medicare is a health insurance program created by the federal government for the elderly and disabled and other eligible persons. 42 U.S.C. 1395, et. seq. Individuals become eligible for Medicare health insurance benefits when they turn 65 years of age. There are two major components of the Medicare Program, Part A and Part B.

14. Medicare, Part B, is an optional program that provides coverage for some healthcare services for Kentucky's participating elderly and disabled citizens not covered by Part A. 42 U.S.C. 1395j through 1395w-4. Medicare, is supported by government funds and premiums paid by eligible individuals who choose to participate in the program.

15. Medicare, Part B pays for a portion of the cost of prescription drugs, generally those drugs which are administered by a physician provider.

16. For prescription drugs covered by Part B, Medicare calculates the "allowable amount," the amount that Medicare will pay, based upon the formula set forth in 42 C.F.R. 405.517, which is the lower of the actual charge or 95% of the national AWP of the drug or biological. Medicare then pays eighty percent (80%) of the allowable amount. The remaining 20% is paid by the Medicare, Part B beneficiary as a co-payment

amount. In addition, Medicare, Part B beneficiaries are required to pay an annual deductible amount before Part B benefits are payable.

17. Upon information and belief, at all relevant times to this action, the Defendant was aware of the Medicare program's Part B drug reimbursement formulas.

B. The Defendant's Reporting of Inflated AWP information

18. Upon information and belief, at all relevant times material to this action the Defendant knowingly, willfully and intentionally provided false and inflated AWP and other pricing information for its drugs, including, but not limited to, those in Exhibit 1, to various nationally known pharmaceutical price reporting services, including First Data Bank, a/k/a Blue Book, Medical Economics Co., Inc., a/k/a Red Book, and Medispan.

19. Upon information and belief, First Data Bank, a/k/a Blue Book, Medical Economics Co., Inc., a/k/a Red Book, and Medispan do not independently determine the Defendant's drug AWP information. The Defendant provides the AWP pricing information on its drug products, or other pricing information from which the AWP is derived, to the reporting services, which then publish the prices, or provide the information to entities such as wholesalers whom the Defendant knows will supply the information to the reporting services.

20. At all relevant times material to this action Kentucky Medicaid purchased the Defendant's published AWP or other pricing information from nationally recognized pharmaceutical price reporting services, including First Data Bank and Medispan.

21. At all relevant times material to this action Kentucky Medicaid and Medicare, Part B beneficiaries relied upon the AWP and other pricing information provided by the Defendant to nationally known price reporting services in determining the amount

Kentucky Medicaid reimburses providers, and the amount of the 20% co-payment Medicare, Part B beneficiaries were required to pay for Part B covered drugs.

22. Upon information and belief, at all relevant times material to this action, the Defendant was aware that Kentucky Medicaid and Medicare, Part B beneficiaries relied upon the Defendant's AWP and other pricing information, as provided by the Defendant to the various price reporting agencies, including First Data Bank, to determine the amounts it reimbursed to providers for covered prescription drugs and the amount of the 20% co-payment Medicare, Part B beneficiaries were required to pay for Part B covered drugs..

23. The Defendant had a Kentucky common law and Kentucky statutory duty to report pricing information which the Defendant knew fairly and reasonably reflected the prices in the marketplace.

24. Upon information and belief, the Defendant knowingly, willfully, and intentionally concealed its drugs' true AWP and other pricing information from Kentucky Medicaid and Kentucky Medicare, Part B beneficiaries.

25. Upon information and belief, the Defendant's false and inflated reporting of AWP or other drug pricing information greatly exceeded the actual prices at which the Defendant and/or other sellers sold Defendant's drugs to Kentucky Medicaid providers.

26. Upon information and belief, at all relevant times material to this action, the Defendant's reported AWP bears no relation to any price, much less an average wholesale price.

C. The Defendant's Marketing of the "Spread"

27. Upon information and belief, the Defendant commonly refers to the difference between the reported AWP pricing information and the actual price of a drug as the "spread."

28. Upon information and belief, the Defendant knowingly, willfully, and intentionally created a "spread" on its drugs, and marketed the "spread" on its drugs with the intent of inducing Kentucky Medicaid providers to purchase and prescribe its drugs rather than competitors' drugs, thereby increasing the profit of Kentucky Medicaid providers and the market share and profits of the Defendant, at the expense of the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries.

29. Upon information and belief, the Defendant manipulated and controlled the size of the "spread" on its drugs by increasing its reported AWP and other pricing information, while decreasing its actual sale price to wholesalers and providers over time.

30. Upon information and belief, in addition to manipulating the reported AWP and other pricing information, the Defendant used discounts, rebates, free goods, charge-backs, and other financial incentives to induce providers to purchase or administer its drugs, all of which lowered the actual prices of the Defendant's drugs, resulting in increased profits for providers, as well as market share and profits of the Defendant, at the expense of Kentucky Medicaid and Kentucky Medicare, Part B beneficiaries.

31. Exhibits 2-5 attached to this Complaint provide examples of Defendant's reporting rising AWP pricing information, while actual costs for drugs, including, but not limited to, Vancomycin and Sodium Chloride were decreasing.

D. Damages to the Kentucky Medicaid Program

32. The fraudulent practices engaged in by the Defendant in creating and reporting false and inflated AWP pricing information for its drugs, concealing actual pricing information and marketing the "spread" on its drugs as an inducement to providers to utilize Defendant's drugs, has resulted in the Commonwealth of Kentucky paying millions of dollars in excess Medicaid payments, while at the same time enriching the Defendant with excessive, unjust and illegal profits.

E. Damages to Kentucky Medicare, Part B beneficiaries

33. The fraudulent practices engaged in by the Defendant in creating and reporting false and inflated AWP pricing information for its drugs, concealing actual pricing information and marketing the "spread" on its drugs as an inducement to providers to utilize or administer Defendant's drugs, has resulted in Kentucky's Medicare, Part B beneficiaries, many of which are elderly and/or disabled, paying excessive co-payments for covered drugs.

34. The fraudulent practices engaged in by the Defendant in creating and reporting false and inflated AWP pricing information for its drugs, concealing actual pricing information and marketing the "spread" on its drugs as an inducement to providers to prescribe or administer Defendant's drugs, in some cases have caused the 20% co-payment paid by Kentucky Medicare, Part B beneficiaries to exceed the total actual cost of the drug to the provider.

V. CLAIMS

COUNT I

ACTION TO RECOVER MONEY

DUE COMMONWEALTH PURSUANT TO KRS 15.060

35. Plaintiff hereby incorporates by reference paragraphs 1 through 34.

36. KRS 15.060 (2) provides the Attorney General shall: "When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same."

37. The Defendant has caused fraudulent, erroneous and/or illegal claims to be paid out of the Kentucky State Treasury by (a) reporting false and inflated AWP pricing information on its drugs to reporting services relied upon by the Kentucky Medicaid program for reimbursement of Kentucky Medicaid providers, while at the same time concealing actual AWP pricing information, (bc) marketing the "spread" between the actual costs of the drugs and the reported AWP pricing information to Kentucky Medicaid providers to induce the use of Defendant's drugs, and thereby (cd) obtaining excessive, unjust and illegal profits.

38. As a direct result of the Defendant's actions, Defendant has caused damages to the Kentucky Treasury and Kentucky Medicaid through the payment of grossly excessive prices for the Defendant's prescription drugs.

COUNT II
PER SE VIOLATION OF THE KENTUCKY
CONSUMER PROTECTION ACT KRS 367.170
VIOLATION OF KENTUCKY MEDICAID FRAUD STATUTE-KRS 205.8463 (4)

39. Plaintiff hereby incorporates by reference paragraphs 1 through 38.

40. KRS 205.520 (2) provides: "The General Assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty, and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care."

41. KRS 205.8463 (4) provides: "No person shall, in any matter within the jurisdiction of the Cabinet for Health Services under this chapter, knowingly falsify, conceal, or cover-up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry."

42. KRS 205.8463 is designed to protect the Commonwealth of Kentucky, to protect the quality of health care of Kentucky's poor citizens and the investment of the Kentucky public in the health care of its poor citizens.

43. KRS 367.170 (1) provides: "Unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

44. The Defendant violated KRS 205.8463, and thereby committed per se violations of KRS 367.170 by, including, but not limited to, knowingly and willfully (a) engaging in a scheme to falsify the true AWP of its drugs, including, but not limited

to, those drugs in Exhibit 1, (b) reporting false and inflated AWP or other pricing information on its drugs to reporting services relied upon by the Kentucky Medicaid program for reimbursement of Kentucky Medicaid providers, while at the same time concealing actual AWP pricing information, (c) marketing the “spread” between the actual costs of the drugs and the reported AWP pricing information to Kentucky Medicaid providers to induce the use of Defendant’s drugs, and thereby (d) obtaining excessive, unjust and illegal profits.

45. As a direct result of the Defendant’s per se violations of KRS 367.170 resulting from violations of KRS 205.8463 (4), Defendant has caused damages to the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries through the payment of grossly excessive prices for the Defendant’s prescription drugs.

COUNT III

**PER SE VIOLATION OF THE KENTUCKY
CONSUMER PROTECTION ACT KRS 367.170**

VIOLATION OF KENTUCKY FALSE ADVERTISING STATUTE-KRS 517.030

46. Plaintiff hereby incorporates by reference paragraphs 1 through 45.

47. KRS 517.030 provides: “A person is guilty of false advertising when, in connection with the promotion of the sale of or to increase the consumption of property or services, he knowingly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.”

48. In KRS 517.030 the Kentucky General Assembly has evinced a public policy designed to protect the public from persons who use false and misleading statements to increase the sale or consumption of its products.

49. KRS 367.170 (1) provides that "Unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

50. The Defendant violated KRS 517.030, and thereby committed per se violations of KRS 367.170, by knowingly and willfully reporting false, misleading and inflated AWP pricing information on its drug products to national reporting services, while at the same time concealing actual AWP pricing information. The reporting services in turn published the Defendant's AWP information to substantial numbers of persons, including, but not limited to, the Kentucky Medicaid program, in connection with promotion of the sale of or to increase the consumption of Defendant's prescription drugs.

51. As a direct result of the Defendant's per se violations of KRS 367.170 resulting from violations of KRS 517.030, Defendant has caused damages to the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries through payment of grossly excessive prices for the Defendant's prescription drugs.

COUNT IV
VIOLATION OF THE KENTUCKY
CONSUMER PROTECTION ACT-KRS 367.170, KRS 446.070

52. Plaintiff hereby incorporates by reference paragraphs 1 through 51.

53. KRS 367.170 (1) provides: "Unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

54. The Defendant has committed violations of KRS 367.170 by willfully
(a) engaging in a scheme to falsify the true AWP of its drugs, including but not limited to, those drugs in Exhibit 1, (b) reporting false and inflated AWP or other pricing

information on its drugs to reporting services relied upon by the Kentucky Medicaid program for reimbursement of Kentucky Medicaid providers, while at the same time concealing actual AWP pricing information (c) marketing the "spread" between the actual costs of the drugs and the reported AWP pricing information to Kentucky Medicaid providers to induce the use of Defendant's drugs, and thereby (d) obtaining excessive, unjust and illegal profits.

55. As a direct result of Defendant's violations of KRS 367.170, Defendant has caused damages to the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries through the payment of grossly excessive prices for the Defendant's prescription drugs.

COUNT V
VIOLATIONS OF KENTUCKY MEDICAID
FRAUD STATUTE-KRS 205.8463 (4), KRS 446.070

56. Plaintiff hereby incorporates by reference paragraphs 1-55.

57. KRS 205.8463 (4) provides: "No person shall, in any matter within the jurisdiction of the Cabinet for Health Services under this chapter, knowingly falsify, conceal, or cover-up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry."

58. KRS 446.070 provides that: "A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation.

59. The Defendant violated KRS 205.8463 (4) by including, but not limited to, knowingly (a) engaging in a scheme to falsify the true AWP of its drugs, including, but not limited to, those drugs in Exhibit 1, (b) reporting false and inflated AWP or other pricing information on its drugs to reporting services relied upon by the Kentucky Medicaid program for reimbursement of Kentucky Medicaid providers, while at the same time concealing actual pricing information, (c) marketing the "spread" between the actual costs of the drugs and the reported AWP pricing information to Kentucky Medicaid providers to induce the use of Defendant's drugs, and thereby (d) obtaining excessive, unjust and illegal profits.

60. As a direct result of the Defendant's violations of KRS 205.8463 (4), Defendant has caused damages to the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries through the payment of grossly excessive prices for the Defendant's prescription drugs.

COUNT VI
VIOLATIONS OF KENTUCKY
FALSE ADVERTISING STATUTE-KRS 517.030, KRS 446.070

61. Plaintiff hereby incorporates by reference paragraphs 1-60.

62. KRS 517.030 provides: "A person is guilty of false advertising when, in connection with the promotion of the sale of or to increase the consumption of property or services, he knowingly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons."

63. KRS 446.070 provides that: "A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation.

64. The Defendant violated KRS 517.030, by knowingly reporting false, misleading and inflated AWP or other pricing information on its drug products to national reporting services, while at the same time concealing actual pricing information. The reporting services in turn published the Defendant's AWP information to substantial numbers of persons, including, but not limited to, the Kentucky Medicaid program, in connection with the promotion of the sale of or to increase the consumption of Defendant's prescription drugs, including, but not limited to those identified in Exhibit 1.

65. As a direct result of the Defendant's violations of KRS 517.030, Defendant has caused damages to the Kentucky Medicaid program and Kentucky Medicare, Part B beneficiaries through the payment of grossly excessive prices for the Defendant's prescription drugs.

COUNT VII
COMMON LAW FRAUD

66. Plaintiff hereby incorporates by reference paragraphs 1 through 65.

67. In Kentucky an action for common law fraud may be had where the Defendant makes (a) a material representation, (b) which is false, (c) known to be false or made recklessly, (d) with inducement to be acted upon, (e) where the plaintiff acted in reliance thereon and, which (f) causes injury to the plaintiff.

68. The Defendant committed common law fraud by including, but not limited to, (a) reporting false AWP or other pricing information concerning its drugs to national pharmaceutical reporting services, including First Data Bank, (b) knowing that the AWP or other pricing information was false, and otherwise concealing actual AWP pricing information, (c) knowing that the Kentucky Medicaid program and Medicare, Part B

beneficiaries would rely on the false AWP or other pricing information in reimbursing Kentucky Medicaid providers and in the payment of co-payments, respectively, (d) which information was relied upon Kentucky Medicaid and Medicare, Part B beneficiaries in reimbursing Kentucky Medicaid providers and in the payment of co-payments, respectively, and thereby (e) caused damages to Kentucky Medicaid and Kentucky Medicare, Part B beneficiaries through the payment of grossly excessive prices for its prescription drugs.

69. By engaging in the acts and practices described above, the Defendant has engaged and continues to engage in repeated fraudulent acts and practices in violation of the Kentucky common law.

COUNT VIII
PROMISSORY ESTOPPEL

70. Plaintiff hereby incorporates by reference paragraphs 1 through 69.

71. The Defendant, through its agents and employees, represented it was providing true AWP or other pricing information concerning its drugs to national pharmaceutical reporting services with knowledge or reasonable expectation that the false representations would be relied upon by (a) the Kentucky Medicaid program and, (b) Medicare, Part B beneficiaries.

72. In making these representations the Defendant knew or should have known the Plaintiff would be induced to its detriment to reimburse Medicaid providers, and that Medicare, Part B beneficiaries would be induced to pay higher co-payments, in reliance thereupon.

73. The Defendant made false representations of AWP or other pricing information concerning their drug products to nationally known pharmaceutical price reporting services, including First Data Bank, a/k/a Blue Book.

74. The Plaintiff and Kentucky Medicare, Part B beneficiaries reasonably relied upon the false representations as set forth in this complaint and were induced by those representations to reimburse Medicaid providers at a cost substantially above the average wholesale price paid for the medication, and pay higher co-payments, respectively.

75. As a proximate result of the Defendant's false representation of AWP or other pricing information, the Plaintiff and Medicare, Part B beneficiaries relied upon those representations to their detriment, and suffered and continue to suffer damages due to excess reimbursement and excessive co-payments to providers for medications manufactured by the Defendant.

VI. PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Kentucky, by counsel, Attorney General Albert B. Chandler III, prays for the following relief:

1. Judgment that the Defendant committed repeated knowing and willful per se violations of KRS 367.170 by violating 205.8463 (4);
2. Judgment that the Defendant committed repeated knowing and willful per se violations of KRS 367.170 by violating 517.030;
3. Judgment that the Defendant committed repeated willful violations of KRS 367.170;

4. Judgment pursuant to KRS 446.070 that the Defendant committed repeated violations of KRS 205.8463 (4);

5. Judgment pursuant to KRS 446.070 that the Defendant committed repeated violations of KRS 517.030;

6. Judgment that the Defendant has engaged in repeated acts of common law fraud;

7. Judgment that the Defendant has engaged in conduct, acts or practices which resulted in fraudulent, erroneous or illegal payments out of the Kentucky State Treasury.

8. Permanently enjoining the Defendant and its employees, officers, directors, agents, successors, assigns, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries, and any and all persons acting in concert or participation with Defendant, from its unlawful conduct, acts and practices.

9. Awarding treble damages pursuant to KRS 205.8467 and 446.070 and restitution pursuant to KRS 15.060 to the Kentucky Medicaid program for excessive prescription drug reimbursements as a result of the Defendant's unlawful conduct;

10. Awarding damages and restitution for Kentucky Medicare, Part B beneficiaries for the excessive prescription drug co-payments paid as a result of the Defendant's unlawful conduct;

11. Awarding civil penalties of \$2,000 for each willful violation of the Kentucky Consumer Protection Act pursuant to KRS 367.990 (2);

12. Awarding civil penalties of \$10,000 for each violation of the Kentucky Consumer Protection Act pursuant to KRS 367.990 (2), where the Defendant's conduct was directed at a person aged sixty (60) or older;

13. Awarding punitive damages against the Defendant pursuant to KRS 411.184;

14. Awarding the Commonwealth of Kentucky its costs and attorneys fees;

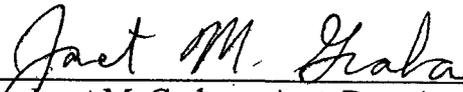
15. Awarding the Commonwealth of Kentucky and Medicare, Part B beneficiaries prejudgment interest as permitted by law;

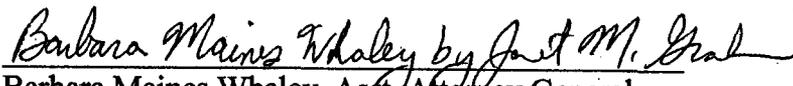
16. Trial by jury on all issues so triable;

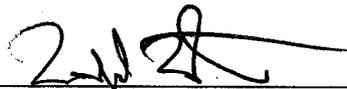
17. Awarding any other relief to which the Commonwealth is entitled or the Court deems appropriate and just.

Respectfully Submitted,

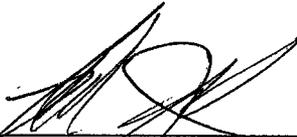
ALBERT B. CHANDER III
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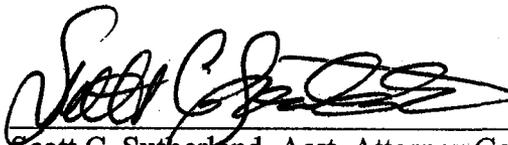

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Exhibit 1**Abbott's Subject Pharmaceutical Products**

Product	Size	NDC#
Sodium Chloride 0.9%	50 ml	00074-7101-13
Sodium Chloride 0.9%	100 ml	00074-7101-23
Sodium Chloride 0.9%	250 ml	00074-7983-02
Sodium Chloride 0.9%	500 ml	00074-7983-03
Sodium Chloride 0.9%	1000 ml	00074-7983-09
5% Detrose in Water	50 ml	00074-7100-13
5% Detrose in Water	100 ml	00074-7100-23
5% Detrose in Water	250 ml	00074-7100-02
5% Detrose in Water	500 ml	00074-7922-03
5% Detrose in Water	1000 ml	00074-7922-09
5% Detrose/ NaCl 0.9%	250 ml	00074-7941-02
5% Detrose/ NaCl 0.9%	500 ml	00074-7941-03
5% Detrose/ NaCl 0.9%	1000 ml	00074-7941-09
Ringers Lactate	250 ml	00074-7953-02
Ringers Lactate	500 ml	00074-7953-03
Ringers Lactate	1000 ml	00074-7953-09
Vancomycin HCL	500 ml	00074-4332-01
Vancomycin HCL	1 gm	00074-6535-01
Vancomycin HCL	1 gm	00074-6533-01
Vancomycin HCL	5 gm	00074-6509-01
Tobramycin Sulfate	20 mg	00074-3577-01
Tobramycin Sulfate	60 mg/50 ml	00074-3469-13
Tobramycin Sulfate	60 mg/6 ml	00074-3254-03
Tobramycin Sulfate	80 mg	00074-3470-23
Tobramycin Sulfate	80 mg	00074-3583-01
Tobramycin Sulfate	80 mg	00074-3578-01
Tobramycin Sulfate	80 mg	00074-3255-03
Pentamidine	300 mg	00074-4548-01
Clindamycin Phosphate	300 mg	00074-4053-03
Clindamycin Phosphate	300 mg	00074-4050-01
Clindamycin Phosphate	600 mg	0074-4054-03
Clindamycin Phosphate	600 mg	00074-4051-01
Clindamycin Phosphate	9000 mg	00074-4197-01
Clindamycin Phosphate	900 mg	00074-4055-03
Sodium Bicarbonate	50 ml	00074-6625-02
Amikacin Sulfate	1 gm, 4 ml	00074-1957-01
Heparin Lock Flush	10 u/ml 30 ml	00074-1151-78
Heparin Lock Flush	100 u/ml 30 ml	00074-1152-78
Heparin Lock Flush	100 u/ml 10 ml	00074-1152-70
Water for Injection	20 ml	00074-4887-20
Water for Injection	10 ml	00074-4887-10

Exhibit 1**Abbott's Subject Pharmaceutical Products**

Water for Injection	30 ml	00074-3977-03
Water for Injection	1000 ml	00074-1590-05
Water for Injection	1000 ml	00074-7990-09
Water for Injection	100 ml	00074-4887-99
Dextrose 5%/KCl/NaCl	1000 ml	00074-7902-09
Erythromycin Base	250 mg Tab 100's	00074-6326-13
Erythromycin Base	250 mg Tab 500's	00074-6326-53
Erythromycin Stearate	250 mg Tab 100's	00074-6346-20
Erythromycin Stearate	250 mg Tab 500's	00074-6346-53
Erythromycin Stearate	500 mg Tab 100's	00074-6316-13
Erythromycin Stearate UD	250 mg Tab 100's	00074-6346-38
ERY-TAB E/C	250 mg 30's	00074-6304-30
ERY-TAB E/C	250 mg 100's	00074-6304-13
ERY-TAB E/C UD	250 mg 100's	00074-6304-11
EES/Sulfisoxazole	200 mg, 100 ml	00074-7156-13
EES/Sulfisoxazole	200 mg 150 ml	00074-7156-43
EES/Sulfisoxazole	200 mg 200 ml	00074-7156-53

Exhibit 2

Defendant-Abbott (1997 reported vs. actual prices for Vancomycin)

Drug	Drug Type	NDC #	Abbott's Reported AWP	Actual Price	"Spread"
Vancomycin HCL	Antibiotic	00074-4332-01	\$34.66	\$3.75	\$30.91
Vancomycin HCL	Antibiotic	00074-6509-01	\$155.92	\$43.86	\$112.06
Vancomycin HCL	Antibiotic	00074-6533-01	\$69.31	\$7.60	\$61.71

Exhibit 3

Defendant-Abbott (2000 reported vs. actual prices for Vancomycin)

Drug	Drug Type	NDC #	Abbott's Reported AWP	Actual Price	"Spread"
Vancomycin HCL	Antibiotic	00074-4332-01	38.21	\$2.98	\$35.23
Vancomycin HCL	Antibiotic	00074-6509-01	\$171.90	\$25.03	\$146.87
Vancomycin HCL	Antibiotic	00074-6533-01	\$76.41	\$4.75	\$71.66

Exhibit 4

Defendant-Abbott (1997 reported vs. actual prices for Sodium Chloride)

Drug	Drug type	NDC #	Abbott's Reported AWP	Actual Price	"Spread"
Sodium Chloride	IV Solution	00074-7101-13	\$12.68	\$3.03	\$9.65
Sodium Chloride	IV Solution	00074-7101-23	\$12.68	\$3.03	\$9.65
Sodium Chloride	IV Solution	00074-7983-02	\$10.53	\$1.87	\$8.66

Exhibit 5

Defendant Abbott (1999 reported vs. actual prices for Sodium Chloride)

Drug	Drug type	NDC#	Abbott's Reported AWP	Actual Price	"Spread"
Sodium Chloride	IV Solution	00074-7101- 13	\$13.98	\$1.62	\$12.36
Sodium Chloride	IV Solution	00074-7101- 23	\$13.98	\$1.62	\$12.36
Sodium Chloride	IV Solution	00074-7983- 02	\$11.61	\$1.46	\$10.15