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Major Generic Pharmaceutical Company Admits to Antitrust Crimes

Sandoz Inc. Agrees to Pay a \$195 Million Criminal Penalty, the Largest for a Domestic Antitrust Case

Sandoz Inc., a generic pharmaceutical company headquartered in New Jersey, was charged for conspiring to allocate customers, rig bids, and fix prices for generic drugs, the Department of Justice announced. A four-count felony charge was filed today in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, charging Sandoz with participating in four criminal antitrust conspiracies, each with a competing manufacturer of generic drugs and various individuals. This represents the third pharmaceutical company to admit to criminal antitrust charges in the Antitrust Division's ongoing investigation. The charged conspiracies took place between 2013 and 2015.

The Antitrust Division also announced a deferred prosecution agreement resolving the charges against Sandoz, under which the company agreed to pay a \$195 million criminal penalty and admitted that its sales affected by the charged conspiracies exceeded \$500 million. Under the deferred prosecution agreement, Sandoz has agreed to cooperate fully with the Antitrust Division's ongoing criminal investigation. As part of the agreement, the parties will file a joint motion, which is subject to approval by the Court, to defer for the term of the DPA any prosecution and trial of the charges filed against the defendant.

"Today's resolution, with one of the largest manufacturers of generic drugs, is a significant step toward ensuring that prices for generic drugs are set by competition, not collusion, and rooting out antitrust crimes that cheated American purchasers of vital medicines," said Assistant Attorney General Makan Delrahim of the Department of Justice's Antitrust Division. "Sandoz conspired for years with other manufacturers and their executives to raise prices for critical medications, and the Antitrust Division will continue its ongoing investigation to hold both individuals and corporations accountable for these crimes."

"This significant resolution is a critical step toward ensuring a free and open marketplace for the competitive pricing of generic drugs," said Special Agent in Charge Scott Pierce, U.S. Postal Service Office of Inspector General. "The outstanding work by the legal and investigative teams effectively quashed an environment of bid rigging, market allocation and price fixing within the generics industry. Along with our partners at the Department of Justice's Antitrust Division and the Federal Bureau of Investigation, the U.S. Postal Service Office of Inspector General will continue to aggressively investigate this type of detrimental behavior."

"This resolution demonstrates the continued dedication of the FBI and our partners to root out collusion and dishonest business practices within the pharmaceutical industry, on behalf of the American people," said Timothy M. Dunham, Special Agent in Charge of the FBI Washington Field Office's Criminal Division. "We will not turn a blind eye while companies and executives pad their pocketbooks. The FBI will continue to fight for the public to have access to a competitive marketplace of medications that Americans count on."

"When a pharmaceutical company participates in bid-rigging and price-fixing, the entire community suffers," said U.S. Attorney William M. McSwain for the Eastern District of Pennsylvania. "My Office will continue to work with the Department of Justice and all of our law enforcement partners to ensure that prices for medicine are set legally, and not through illegal means to benefit pure greed."

In the deferred prosecution agreement, Sandoz admitted that it participated in the charged antitrust conspiracies, as follows:

- Count One charges Sandoz for its role in a conspiracy with a generic drug company based in New York and other individuals. Sandoz admitted that drugs affected by this conspiracy included clobetasol (cream, emollient cream, gel, ointment, and solution), desonide ointment, and nystatin triamcinolone cream.
- Count Two charges Sandoz for its role in a conspiracy with Kavod Pharmaceuticals LLC (formerly known as Rising Pharmaceuticals) to allocate customers and fix prices of benazepril HCTZ. Rising was charged and entered into a deferred prosecution agreement in December 2019 for its participation in the same conspiracy.
- Count Three charges Sandoz for its role in a conspiracy with a generic drug company based in Michigan. Sandoz admitted that drugs affected by this conspiracy included desonide ointment.
- Count Four charges Sandoz for its role in a conspiracy with a generic drug company based in Pennsylvania. Sandoz admitted that drugs affected by this conspiracy included tobramycin inhalation solution.

Today's case is the seventh to be filed in the Antitrust Division's ongoing investigation into the generic pharmaceutical industry. Sandoz is the third company to be charged; the previous two companies also entered into deferred prosecution agreements. Four individual charges have been filed in the investigation. Three executives have pleaded guilty, including former Sandoz executive Hector Armando Kellum. Ara Aprahamian, a former executive of a company based in New York, was indicted in February 2020 and is awaiting trial.

The charged offense carries a statutory maximum penalty of a \$100 million fine per count for corporations, which may be increased to twice the gain derived from the crime or twice the loss suffered by victims if either amount is greater than \$100 million.

This charge is the result of an ongoing federal antitrust investigation into price fixing, bid rigging and other anticompetitive conduct in the generic pharmaceutical industry, which is being conducted by the Antitrust Division with the assistance of the United States Postal Service Office of Inspector General, the FBI's Washington Field Office, the FBI's Philadelphia Field Office, and the U.S. Attorney's Office for the Eastern District of Pennsylvania. Anyone with information on market allocation, price fixing, bid rigging and other anticompetitive conduct related to the generic pharmaceutical industry should contact the Antitrust Division's Citizen Complaint Center at 1-888-647-3258 or visit www.justice.gov/atr/contact/newcase.html.

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