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Suit Alleges Valeant Ran Secret Prescription Refill Scam

Valeant Pharmaceuticals International Inc. refilled patients' prescriptions without their permission and steered them to more expensive drugs in order to boost sales and profits, according to a lawsuit that sheds new light on the drug company's secret operations.

T. Rowe Price Group Inc. sued Valeant and its top executives, using information from former employees to back its claims that the mutual fund giant was a victim of fraud. The former Valeant workers expand on previous disclosures about the Laval, Quebec-based company that has been the subject of criminal, congressional and regulatory investigations of how it shielded branded drugs from generic competition to inflate revenue and profit.

Employees cited in the lawsuit provided fresh insight into how the mail-order pharmacy Philidor Rx Services LLC helped Valeant hide cheaper generic versions of its drugs and channeled prescriptions to brand names. One pharmacy worker in Phoenix said Philidor had a group of 10 employees "devoted to calling patients to enroll them in the automatic refill program without their permission," according to the complaint.

Philidor workers would leave messages for patients saying "if we don't hear from you in 24 hours, we will process your refill," according to the intake specialist cited in the complaint. The worker said people "were upset with this practice because regardless of whether or not the patient is billed, the refill is billed through their insurance and has an impact on a patient's policies."

Ongoing Investigations

New York-based insurer Alleghany Corp. joined the T. Rowe Price securities fraud case, which claims the investors relied on Valeant's misrepresentations and omissions. Valeant is facing investigations from Congress and the U.S. Securities and Exchange Commission. The Wall Street Journal reported last week that federal prosecutors are investigating potential fraud.

Valeant's Chief Executive Officer Joe Papa said the company hasn't set aside any money to pay for potential fines or litigation judgments, David Maris, a senior analyst at Wells Fargo Securities LLC, said in a note to investors Thursday. He said he expects Valeant will have to pay \$2 billion in litigation expenses.

"We find the growing list of investigations potentially overwhelming for any management team, let alone one

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that is dealing with a significant business disruption and management turnover,” Maris said.

Confidentiality Agreements

Secrecy was so important to the Valeant-Philidor relationship that the employees had to sign confidentiality agreements “empowering the pharmacy to sue workers who divulged information about its activities,” according to a patient-care specialist cited in the complaint.

Philidor’s internal policy also mandated that Valeant-branded drugs be dispensed, even if a prescription called for a generic, said an adjudication specialist cited in the complaint.

“Philidor told employees to always put ‘brand’ in Philidor’s computer system and to change the prescription in order to dispense a brand drug,” the specialist said. “Indeed, her supervisor told her that, ‘We do not dispense generics. You give them the brand drugs.’”

None of the employees cited in the complaint are named.

‘Massive Risks’

Valeant engaged in a “growth by acquisition strategy” and continually reported revenue and earnings growth while shielding the secret network of controlled pharmacies and other practices from investors, exposing it to “massive risks,” T. Rowe Price said in the lawsuit, filed in Trenton, New Jersey, on Aug. 15. The company’s U.S. unit is based in Bridgewater, New Jersey.

Company spokeswoman Laurie Little said the complaint repeats allegations and claims made in a suit filed last October that seeks class-action status.

“Valeant intends to defend itself and cannot comment further on ongoing litigation,” Little said in an e-mail.

T. Rowe Price owned 1.48 million shares of Valeant as of June 30, down 31 percent from the previous quarter, according to data compiled by Bloomberg. Valeant shares fell 2.7 percent to \$29.19 Thursday in New York trading. The stock hit a high of \$262.52 on Aug. 5, 2015.

Valeant severed its ties with Philidor in October, following reports about tactics the mail-order pharmacy allegedly used to gain more insurance reimbursements for Valeant medicines. They included submitting claims using other pharmacies’ identification numbers and altering codes on some doctors’ prescriptions. Valeant didn’t originally reveal its full relationship with Philidor, which included shared staff and an option to acquire the business.

Ex-CEO Sued

Beyond Valeant, the complaint cites six current and former executives as defendants, including former Chief Executive Officer Michael Pearson and former interim CEO Howard Schiller.

According to the complaint, Valeant hired former Medco Health Solutions Inc. executive Laizer Kornwasser in 2013 to oversee its relationship with Philidor. Kornwasser, who left Valeant last year, received \$8.8 million in cash and stock awards in his first year, according to the complaint, which didn’t cite the source of its information.

Valeant put a 30-person team inside Philidor “with instructions to show doctors how to direct patients to Valeant

products,” according to the complaint. “At different points in Philidor’s evolution, Valeant employees were responsible for performing a variety of key business functions for the pharmacy, including interviewing Philidor job applicants and overseeing the pharmacy’s billing operations,” the complaint said.

The case is *T. Rowe Price Growth Stock Fund Inc. v. Valeant Pharmaceuticals International Inc.*, 16-cv-05034, U.S. District Court, District of New Jersey (Trenton).

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