

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**REPORT AND RECOMMENDATION
GRANTING FINAL APPROVAL OF
THE SETTLEMENTS AND MOTION
FOR ATTORNEYS' FEES AND
EXPENSES, AND CERTIFYING
SETTLEMENT CLASS**

Before the Court is Plaintiffs' Motion for Final Approval of the Settlements and Plan of Allocation under Rule 23(e) (the "Motion"). The Motion sought final approval of two class action settlements: (1) the "Valeant Settlement" with Valeant Pharmaceuticals International, Inc. (now known as Bausch Health Companies Inc.) ("Valeant") on the terms set forth in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2), and amended on November 22, 2021 (the "Valeant Stipulation"); and (2) the separate "Philidor Defendants Settlement" with Philidor Rx Services, LLC, Andrew Davenport, and the Estate of Matthew S. Davenport (collectively, the "Philidor Defendants") on the terms set forth in the Stipulation and Agreement of Settlement with the Philidor Defendants dated August 4, 2021 (ECF No. 195-2) ("Philidor Defendants Stipulation"). The Motion also sought approval of the proposed plan for allocating the net proceeds of the Settlements ("Plan of Allocation" or "Plan"); and certification of the Settlement Class for purposes of effectuating the Settlements.

WHEREAS, the Court granted preliminary approval of the Settlements on August 17, 2021 (ECF Nos. 196, 197) (the "Preliminary Approval Orders"). The Preliminary Approval Orders provisionally certified the Settlement Class, approved and directed the dissemination of notice of the Settlements to the Settlement Class, preliminarily approved the Settlements, and set a date and

time for the Settlement Hearing for the Court to consider whether the Valeant Settlement and Philidor Defendants Settlements should be finally approved as fair, reasonable and adequate, pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure;

WHEREAS, on December 2, 2021, the Court held a Settlement Hearing, at which time the Parties, and those who timely submitted their notices of intent to appear at the hearing, were given the opportunity to be heard in support of and/or in opposition to the Settlements;

WHEREAS, the Court, has reviewed and considered all of the papers submitted in connection with the Motion, and all of the arguments presented at the Settlement Hearing;

WHEREAS, this Court has fully considered the record and the requirements of law, and good cause appearing;

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Valeant Settlement is hereby FINALLY APPROVED and the Philidor Defendants Settlement is FINALLY APPROVED. The Court further finds and orders as follows:

1. This Court, for the purposes of this Order, adopts all defined terms as set forth in the Valeant Stipulation and Philidor Defendants Stipulation.
2. This Court finds that it has jurisdiction over the Action and the Parties for purposes of settlement and asserts jurisdiction over the Plaintiffs for purposes of considering and effectuating the Settlements.
3. This Court previously reviewed and approved the proposed methods for giving notice of the Settlements to Settlement Class Members. The Court has again reviewed the notice program conducted and finds that Settlement Class Members received the best notice practicable under the circumstances. The Court specifically finds that, as they were distributed, the Notice,

Claim Form and Summary Notice (ECF No. 201-6, Exs. A, C) satisfied the requirements of Rule 23(c)(2), Rule 23(e)(1), and due process as to the Settlements.

4. The Court finds that the Settlements were entered into in good faith by experienced counsel and only after extensive arm's-length negotiations between experience counsel and, in the case of the Valeant Settlement, with the assistance of an experienced mediator, Jed D. Melnick, Esq. of JAMS. The Settlements are not the result of collusion.

5. This Court finds that the requirements of Rule 23(a) are satisfied for settlement purposes only, as follows:

(a) Pursuant to Fed. R. Civ. P. 23(a)(1), the Settlement Class is so numerous that joinder of all members is impracticable;

(b) Pursuant to Fed. R. Civ. P. 23(a)(2) and 23(c)(1)(B), the Court determines that there are common issues of law and fact for the Settlement Class;

(c) Pursuant to Fed. R. Civ. P. 23(a)(3), the claims of Plaintiffs are typical of the claims of the Settlement Class Members; and

(d) Pursuant to Fed. R. Civ. P. 23(a)(4), Plaintiffs have fairly and adequately protected and represented the interests of all Settlement Class Members, and the interests of Plaintiffs are not antagonistic to those of the Settlement Class. Plaintiffs are represented by counsel who are experienced and competent in the prosecution of complex class action litigation.

6. The Court further finds that the requirements of Rule 23(b)(3) are satisfied for settlement purposes only, as follows:

(a) Questions of law and fact common to the Settlement Class Members, as stated above, predominate over questions that may only affect individual Settlement Class Members;

(b) A class action is superior to all other available methods for the fair and efficient adjudication of this controversy; and

(c) The Settlement Class is ascertainable.

7. The Court, having found that all requirements of Fed. R. Civ. P. 23(a) and (b)(3) have been satisfied for settlement purposes only, certifies the Settlement Class as follows:

all health insurance companies, health maintenance organizations, self-funded health and welfare benefit plans, other Third-Party Payors, and any other health benefit provider in the United States of America or its territories, that paid or incurred costs for Valeant's branded drug products in connection with a claim submitted by Philidor, a claim submitted by any pharmacy in which Philidor had a direct or indirect ownership interest, or a claim by any pharmacy for which the amount sought for reimbursement was alleged to be inflated as a result of Defendants' allegedly fraudulent scheme, during the Class Period, and allegedly suffered damages thereby.

Excluded from the Settlement Class are Pharmacy Benefit Managers, Defendants, Defendants' successors and assigns, and any entity in which any Defendant has or had a controlling interest.

8. Also excluded from the Settlement Class are any persons or entities who excluded themselves from the Settlement Class pursuant to request. A list of the Settlement Class Members who have timely opted out of the Settlement Class in connection with the Valeant Settlement and who therefore are not bound by the Valeant Settlement is attached as Exhibit 1 to the proposed Judgment approving the Valeant Settlement (attached hereto as Exhibit A). A list of the Settlement Class Members who have timely opted out of the Settlement Class in connection with the Philidor Defendants Settlement and who therefore are not bound by the Philidor Defendants Settlement is attached as Exhibit 1 to the proposed Judgment approving the Philidor Defendants Settlement

(attached hereto as Exhibit B). All other Settlement Class Members are subject to all provisions of the Settlements and this Court's order entering the Settlements.

9. Pursuant to, and in accordance with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlements set forth in the respective Stipulations in all respects (including, without limitation, the amount of the Settlements, the Releases provided for therein, and the dismissal with prejudice of the Action), and finds that the Settlements are, in all respects, fair, reasonable and adequate to Plaintiffs and the Settlement Class. The Court finds the Settlements to be fair, reasonable, and adequate after due consideration of all of the factors listed in Rule 23(e)(2). Lead Counsel and Plaintiffs have adequately represented the class and the Settlements were vigorously negotiated at arm's length. The relief provided for the Settlement Class in both Settlements is adequate, taking into account the costs, risks, and delay of trial and appeal, the effectiveness of proposed methods of distributing relief to the Settlement Class, including the method of processing Settlement Class Members' Claims, and the award of attorney's fees and costs, and the Settlements treat class members equitably relative to each other

10. In finding the Settlements to be fair, reasonable, and adequate, the Court has also assessed the Settlements under the nine factors identified in Third Circuit precedent for determining whether a class settlement is reasonable and fair. *See Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975); *In re Ins. Brokerage Antitrust Litig.*, 579 F.3d 241, 257-58 (3d Cir. 2009). It has also examined the additional factors identified in *In re Prudential Insurance Co. of America Sales Practices Litigation*, 148 F.3d 283, 323 (3d Cir. 1998), for further assessment of whether final approval is appropriate. The Court finds that each *Girsh* factor, and each applicable *Prudential Insurance* factor, supports approval of the Settlements.

(a) The complexity, expense, and likely duration of the litigation. This case presents complex factual and legal questions that, absent settlement, would have to be resolved through extensive proceedings for which the outcome is uncertain, including expert discovery, contested class certification proceedings, summary judgment briefing, *Daubert* challenges, and a complicated, lengthy trial of any claims that would survive summary judgment. An appeal would almost certainly follow any judgment obtained at trial, thereby further delaying this case's final resolution for a period of months or even years. As such, it is clear that litigation of this matter would be time-consuming, uncertain, and expensive and that approval of the Settlements would secure a prompt and efficient resolution of the class's claims permitting substantial recovery without further litigation, delay, expense, or uncertainty.

(b) The reaction of the Settlement Class to the Settlements. Settlement Class Members' reaction to the Settlements is overwhelmingly positive. There have been no objections to the Settlements and the total number of opt outs received is only six (6), in comparison to over 41,000 Notices mailed, clearly indicating overwhelming support for the Settlements from the Settlement Class.

(c) The stage of the proceedings and the amount of discovery completed. Before the Settlements were reached, the Parties had been engaged in litigation for over four years. The Settlements were reached only after extensive litigation, which included the filing of two consolidated complaints, the second of which was filed after an eighteen-month stay during the pendency of a criminal trial against Defendant Andrew Davenport; motion practice regarding Defendant Davenport's motion to stay; motion practice regarding the Court's appointment of a Special Master; Plaintiffs' successful opposition to Defendants' second round of motions to dismiss, after the first round of motions to dismiss was mooted by the litigation stay; and extensive

discovery, including review and analysis of more than 8.6 million pages of documents produced to Plaintiffs by Defendants and third parties, successful opposition to the Philidor Defendants' motion to quash a document subpoena, and participation in 39 depositions that were coordinated with the Valeant securities actions and required multiple two-day depositions. These proceedings represent years of sustained advocacy by counsel, which gave them a proper understanding of the Action's merits before they negotiated the Settlements.

(d) The risks of establishing liability and the risks of establishing damages. The risks surrounding a trial on the merits are always considerable. Absent the Settlements, many obstacles could have prevented the class from obtaining any recovery, even before reaching trial. Plaintiffs faced considerable risk in facing summary judgment and class certification motions. Even if Plaintiffs were able to maintain the Action beyond summary judgment and class certification, Plaintiffs' methods for determining and calculating their alleged damages has been vigorously disputed by Valeant. Plaintiffs' ability to establish both liability and damages hinges in large part on expert testimony, which is admissible only if it meets the requirements of the Federal Rules of Evidence and *Daubert*. Accordingly, without a settlement, the Court would need to resolve a "battle of the experts" that could result in exclusion of the principal evidence supporting Plaintiffs' claims. Plaintiffs had no guarantee that they would make it to trial, win at trial, and/or win on appeal. Even if they did win at trial and on appeal, relief for the Settlement Class was likely years away as a result of the lengthy litigation process. The Settlements eliminate these risks, cut through the delay, and provide immediate and significant benefits to Settlement Class Members. The substantial and immediate relief provided to the Settlement Class under the Settlements weighs heavily in favor of their approval compared to the inherent risk of continued litigation, trial, and appeal.

(e) The risks of maintaining class action status through trial. When the Parties reached their agreements to settle, a class had not yet been certified. The risks of certifying the class and maintaining the class action through trial also support approval of the Settlements. The motion for class certification would have been contested as Defendants were expected to argue that individualized differences among class members and individualized issues of proximate cause and damages should preclude class certification. In addition, if this Court certified a class under Rules 23(a) and (b) and the case proceeded to trial, the Court would still retain the authority to decertify or modify the class during trial if it became unmanageable or class certification was otherwise found to be inappropriate. This factor therefore weighs in favor of approving the Settlements.

(f) The ability of Defendants to withstand a greater judgment. The Third Circuit has explained that the mere fact that defendants “could afford to pay more” in a judgment than they are agreeing to pay in a settlement “does not mean that [defendants are] obligated to pay any more than what [the] class members are entitled to under the theory of liability that existed at the time the settlement was reached.” *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 538 (3d Cir. 2004). Thus, regardless of whether Valeant could withstand a judgment greater than the amount of the Valeant Settlement, the proposed Valeant Settlement represents a fair, reasonable, and adequate payment under the Settlement Class Members’ theories of liability and in light of the risks of the litigation. Moreover, with respect to the Philidor Defendants Settlement this factor strongly supports approval, because Philidor is a defunct entity with minimal assets; Matthew Davenport is deceased, and his Estate has limited assets; and Andrew Davenport is subject to a multi-million-dollar forfeiture order as a result of his criminal conviction. Accordingly, Plaintiffs

believed that the prospect of obtaining any significantly larger recovery from the Philidor Defendants was remote.

(g) The range of reasonableness of the Settlements in light of the best possible recovery and in light of all the attendant risks of litigation. To assess the last two *Girsh* factors, the Third Circuit requires a comparison of “the amount of the proposed settlement” with “the present value of damages plaintiffs would likely recover if successful, appropriately discounted for the risks of not prevailing.” *Warfarin*, 391 F.3d at 538. Reference points for this analysis include estimates of the recoverable damages submitted by the parties’ experts, *see id.*, and the relief sought in the complaint, *In re Gen. Motors Corp. Pick-up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 810 (3d Cir. 1995), *cert. denied sub nom., Gen. Motors Corp. v. French*, 516 U.S. 824 (1995). The Parties did not agree on the methodology to determine damages in the Action, the assumptions to be used, or the amount that would be recoverable if liability were established. Plaintiffs’ damages expert has estimated that the maximum reasonably recoverable damages ranged from \$169 million to \$242 million and that if Defendants prevailed on just some of their expected arguments related to damages, the maximum damages would have been reduced to an amount not more than \$100 million. The \$23,125,000 recovered in the Settlements, therefore, represents a recovery of 9.6% to 23.1% of the likely damages if Plaintiffs prevailed on liability at trial, which Plaintiffs’ Counsel believe is highly favorable in light of the substantial risks of establishing liability here. Notably, Plaintiffs expected Defendants to contend that Plaintiff could not prove that Settlement Class Members had suffered any cognizable damages. Accordingly, the Settlements represent a substantial recovery, particularly in light of the risks and costs of litigation. This factor therefore weighs in favor of approving the Settlements.

(h) Applicable Prudential Insurance factors. The Third Circuit in *Prudential Insurance* also instructed district courts to consider, “when appropriate,” other factors. *See* 148 F.3d at 323. The *Prudential Insurance* factors applicable here also support finally approving the Settlements. As discussed above, discovery has been extensive and establishes that the Settlements represent an appropriate “assess[ment of] the probable outcome of a trial on the merits of liability and individual damages.” *Id.* In addition, here, the Settlement Class Members had “the right to opt out of the settlement[s].” *Id.* Further, “the procedure for processing individual claims under the settlement is fair and reasonable.” *Id.* And the Settlements’ “provisions for attorneys’ fees are reasonable.” *Id.*

11. In light of its analysis of the *Girsh* and *Prudential Insurance* factors, the Court finds that the Settlements are fair, reasonable, and adequate, and in the best interests of the Settlement Class. The Court fully approves all terms of the Settlements. The terms of the Settlements and this Final Approval Order are binding on Plaintiffs and all Settlement Class Members to the fullest extent provided for in the Stipulations.

12. Valeant Settlement Releases – The Releases set forth in paragraphs 5 and 6 of the Valeant Stipulation, together with the definitions contained in paragraph 1 of the Valeant Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Subject to paragraph 14 below, upon the Effective Date, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released,

resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim (as defined in the Valeant Stipulation) against Valeant and the other Settling Defendant's Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Settling Defendant's Releasees.

(b) Subject to paragraph 14 below, upon the Effective Date, Valeant, on behalf of itself, and its respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendant's Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendant's Claims against any of the Plaintiffs' Releasees. This release shall not apply to any person or entity listed in Exhibit 1.

13. **Philidor Defendants Settlement Releases** – The Releases set forth in paragraphs 5 and 6 of the Philidor Defendants Stipulation, together with the definitions contained in paragraph 1 of the Philidor Defendants Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Subject to paragraph 14 below, upon the Effective Date, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released,

resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim (as defined in the Philidor Defendants Stipulation) against the Philidor Defendants and the other Settling Defendant's Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Settling Defendant's Releasees.

(b) Subject to paragraph 14 below, upon the Effective Date, the Philidor Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendant's Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendant's Claims against any of the Plaintiffs' Releasees. This release shall not apply to any person or entity listed in Exhibit 2.

14. Notwithstanding paragraphs 12 and 13 above, nothing in this Order shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulations or this Final Order.

15. The Court hereby finds and concludes that the formula for the calculation of the claims of Claimants as set forth in the proposed Plan of Allocation set forth in the Notice provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Funds among Settlement Class Members with due consideration having been given to administrative convenience and necessity. The Court hereby finds and concludes that the Plan of

Allocation proposed by Plaintiffs is, in all respects, fair and reasonable to the Settlement Class Members, and approves the Plan of Allocation.

16. The Court has carefully reviewed Lead Counsel's application for an award of attorneys' fees and expenses and hereby awards attorneys' fees to Lead Counsel for all Plaintiffs' Counsel in the amount of 30% of the Settlement Funds (or \$6,937,500.00, plus interest earned thereon) and total Litigation Expenses of \$720,335.39 (to be paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to those funds' relative sizes). Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action.

17. The Court finds that the amount of attorneys' fees awarded is appropriate and that the amount of attorneys' fees awarded is fair and reasonable under either the "percentage-of-recovery" or lodestar method. In making this award of attorneys' fees and costs, the Court has considered the factors enumerated in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) and *Prudential Insurance*, 148 F.3d at 339 and found that:

- (a) numerous Settlement Class Members who are eligible for payments will benefit from the Settlements that occurred due to the efforts of Lead Counsel;
- (b) the requested fee has been reviewed and approved as reasonable by Plaintiffs that actively supervised the Action;
- (c) copies of the Notice were mailed to over 41,000 potential Settlement Class Members stating that Lead Counsel would apply for attorneys' fees in an amount not to exceed 30% of the Settlement Funds, Litigation Expenses in an amount not to exceed \$750,000, and service awards for Plaintiffs in an amount not to exceed \$100,000, and no

objections to the requested attorneys' fees, Litigation Expenses, or service awards were received;

(d) Plaintiffs' Counsel conducted the litigation and achieved the Settlements with skill, perseverance, and diligent advocacy;

(e) This Action involved complex factual and legal issues, and, in the absence of the Settlements, would involve further lengthy proceedings with an uncertain resolution if the case were to proceed;

(f) The risk of nonpayment was high, particularly given the complexity of the case, because Lead Counsel pursued this case on a contingent basis and received no compensation during the duration of the litigation;

(g) Plaintiffs' Counsel devoted over 16,200 hours, with a lodestar value of over \$9,438,000 to achieve the Settlements;

(h) The amount of fees requested is consistent with awards in similar cases and supported by public policy; and

(i) The amount of costs requested is fair and reasonable and necessary for the prosecution and settlement of the Action.

18. Each of the Plaintiffs, AirConditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc., and the Detectives Endowment Association of New York City, is awarded a service award of \$20,000 in compensation for its efforts in prosecuting the claims in the Action, to be paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to their relative

sizes. The service awards are in addition to any payments that Plaintiffs may be eligible for under the Plan of Allocation of the Net Settlement Funds of the Settlements.

19. The Parties and their counsel are ordered to implement and to consummate the Valeant Settlements according to their terms and provisions.

20. The Parties are authorized, without further approval from the Court, to agree to and to adopt such amendments, modifications, and expansions of the Settlements: (i) as are consistent with the Final Approval Order and the Final Judgments, and (ii) which do not limit the rights of Settlement Class Members under the Settlements.

21. In the event that the Valeant Settlement does not become effective according to the terms of the Valeant Stipulation, this Final Approval Order shall be rendered null and void as provided by the Stipulations, the Final Approval Order shall be vacated, all orders entered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulations, and the Parties will be returned to their respective positions in the Action as of July 13, 2021.

22. In the event that the Philidor Defendants Settlement does not become effective according to the terms of the Philidor Defendants Stipulation, this Final Approval Order and other orders entered in connection herewith shall be rendered null and void only as they relate to the Philidor Defendants Settlement to the extent provided by and in accordance with the Philidor Defendants Stipulation, and the parties to the Philidor Defendants Stipulation will be returned to their respective positions in the Action as of July 13, 2021.

23. Without affecting the finality of this Final Approval Order and the Final Judgments in any way, the Court expressly retains continuing and exclusive jurisdiction over the Action, the Parties, and the Settlement Class, and the administration, enforcement, and

interpretation of all terms of the Settlements, this Final Approval Order, and the Final Judgments, and to continue to preside over any unsettled claims.

24. By this Order, the undersigned approves and recommends that the District Court (Hon. Michael A. Shipp) enter the Judgments embodying the relief described above,

Separate judgments consistent with this Order will issue pursuant to Fed. R. Civ. P. 58. The proposed judgments are attached hereto as Exhibits A and B.

SO ORDERED this **6th** day of December, 2021.

s/Dennis M. Cavanaugh

Hon. Dennis M. Cavanaugh (Ret.)
Special Master

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

[PROPOSED] JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, a consolidated class action is pending in this Court captioned *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG) (the “Action”);

WHEREAS, (a) plaintiffs AirConditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund, and the Detectives Endowment Association of New York City (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below); and (b) defendant Valeant Pharmaceuticals International, Inc. (now known as Bausch Health Companies Inc.) (“Valeant”) have entered into a Stipulation and Agreement of Settlement dated August 4, 2021, that was amended on November 22, 2021 (as amended, the “Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against Valeant in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation (as amended);

WHEREAS, by Order dated August 17, 2021 (the “Preliminary Approval Order”), this Court: (a) found, pursuant to Rule 23(e)(1)(B), that it (i) would likely be able to finally approve

the Settlement as fair, reasonable, and adequate under Rule 23(e)(2), (ii) would likely be able to certify the Settlement Class for purposes of the Settlement, and (iii) would likely be able to certify Plaintiffs as Class Representatives for the Settlement Class and appoint Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. as Class Counsel for the Settlement pursuant to Rule 23(g) of the Federal Rules of Civil Procedure; (b) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members; (c) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on December 2, 2021 (the “Settlement Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against Valeant; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – For purposes of effectuating the Settlement, the Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Settling Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on August 5, 2021, and its Amendment filed with the Court on November 24, 2021; and (b) the Notice and the Summary Notice, both of which were filed with the Court on October 28, 2021.

3. **Class Certification for Settlement Purposes** – The Court hereby certifies, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class consisting of all health insurance companies, health maintenance organizations, self-funded health and welfare benefit plans, other Third-Party Payors, and any other health benefit provider in the United States of America or its territories, that paid or incurred costs for Valeant’s branded drug products in connection with a claim submitted by Philidor, a claim submitted by any pharmacy in which Philidor had a direct or indirect ownership interest, or a claim by any pharmacy for which the amount sought for reimbursement was alleged to be inflated as a result of Defendants’ allegedly fraudulent scheme, during the Class Period, and allegedly suffered damages thereby. Excluded from the Settlement Class are Pharmacy Benefit Managers, Defendants, Defendants’ successors and assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Settlement Class are any persons or entities listed on Exhibit 1 hereto who or which are excluded from the Settlement Class pursuant to request.

4. **Settlement Class Findings** – For purposes of the Settlement only, the Court finds that each element required for certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure has been met: (a) the members of the Settlement Class are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Plaintiffs and Class Counsel have and will fairly and adequately represent and protect the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

5. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby appoints Plaintiffs as Class Representatives for the Settlement Class and appoints Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. as Class Counsel for the Settlement Class. Plaintiffs and Class Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of entering into and implementing the Settlement and have satisfied the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

6. **Notice** – The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Class Counsel’s motion for attorneys’ fees and Litigation

Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation and/or Class Counsel's motion for attorneys' fees and Litigation Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The Court further finds that the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, have been satisfied.

7. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation, the amount of the Settlement, the Releases provided for therein, and the dismissal with prejudice of the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to Plaintiffs and the Settlement Class. Specifically, the Court finds that (a) Plaintiffs and Class Counsel have adequately represented the Settlement Class; (b) the Settlement was negotiated by the Settling Parties at arm's length between experienced counsel representing the interests of Plaintiffs, Valeant, and the Settlement Class; (c) the relief provided for the Settlement Class under the Settlement is adequate taking into account the costs, risks, and delay of trial and appeal, the proposed means of distributing the Settlement Fund to the Settlement Class; and the proposed attorneys' fee award; and (d) the Settlement treats members of the Settlement Class equitably relative to each other. The Settling Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

8. All of the claims asserted against Valeant in the Action by Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice as to Valeant. The Settling Parties shall bear their own costs and expenses, except as expressly provided in the Stipulation or otherwise agreed.

9. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Valeant, Plaintiffs, and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.

10. **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 11 below, upon the Effective Date, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against Valeant and the other Settling Defendant's Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Settling Defendant's Releasees.

(b) Without further action by anyone, and subject to paragraph 11 below, upon the Effective Date, Valeant, on behalf of itself, and its respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendant's Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendant's Claims against any of the Plaintiffs' Releasees. This Release shall not apply to any person or entity listed on Exhibit 1 hereto.

11. Notwithstanding paragraphs 10(a) – (b) above, nothing in this Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

12. **Plan of Allocation** – The Court hereby finds and concludes that the formula for the calculation of the claims of Claimants as set forth in the proposed Plan of Allocation set forth in the Notice provides a fair and reasonable basis upon which to allocate the proceeds of the Valeant Net Settlement Fund among Settlement Class Members with due consideration having been given to administrative convenience and necessity. The Court hereby finds and concludes that the Plan of Allocation proposed by Plaintiffs is, in all respects, fair and reasonable to the Settlement Class Members, and approves the Plan of Allocation.

13. **Attorneys' Fees and Expenses** – The Court has carefully reviewed Lead Counsel's application for an award of attorneys' fees and expenses and hereby awards attorneys' fees to Lead Counsel for all Plaintiffs' Counsel in the amount of 30% of the Valeant Settlement Fund (or \$6,900,000.00, plus interest earned thereon) and total Litigation Expenses of \$720,335.39 (to be

paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to those funds' relative sizes). Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action.

14. The Court finds that the amount of attorneys' fees awarded is appropriate and that the amount of attorneys' fees awarded is fair and reasonable under either the "percentage-of-recovery" or lodestar method. In making this award of attorneys' fees and costs, the Court has considered the factors enumerated in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) and *Prudential Insurance*, 148 F.3d at 339 and found that:

(a) numerous Settlement Class Members who are eligible for payments will benefit from the Settlements that occurred due to the efforts of Lead Counsel;

(b) the requested fee has been reviewed and approved as reasonable by Plaintiffs that actively supervised the Action;

(c) copies of the Notice were mailed to over 41,000 potential Settlement Class Members stating that Lead Counsel would apply for attorneys' fees in an amount not to exceed 30% of the Settlement Funds, Litigation Expenses in an amount not to exceed \$750,000, and service awards for Plaintiffs in an amount not to exceed \$100,000, and no objections to the requested attorneys' fees, Litigation Expenses, or service awards were received;

(d) Plaintiffs' Counsel conducted the litigation and achieved the Settlements with skill, perseverance, and diligent advocacy;

(e) This Action involved complex factual and legal issues, and, in the absence of the Settlements, would involve further lengthy proceedings with an uncertain resolution if the case were to proceed;

(f) The risk of nonpayment was high, particularly given the complexity of the case, because Lead Counsel pursued this case on a contingent basis and received no compensation during the duration of the litigation;

(g) Plaintiffs' Counsel devoted over 16,200 hours, with a lodestar value of over \$9,438,000 to achieve the Settlements;

(h) The amount of fees requested is consistent with awards in similar cases and supported by public policy; and

(i) The amount of costs requested is fair and reasonable and necessary for the prosecution and settlement of the Action.

15. Each of the Plaintiffs, AirConditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc., and the Detectives Endowment Association of New York City, is awarded a service award of \$20,000 in compensation for its efforts in prosecuting the claims in the Action, to be paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to their relative sizes. The service awards are in addition to any payments that Plaintiffs may be eligible for under the Plan of Allocation of the Net Settlement Funds of the Settlements.

16. **Use of this Judgment** – Neither this Judgment, the Valeant Term Sheet, the Stipulation (whether or not consummated and whether or not approved by the Court), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation

that may be approved by the Court), the negotiations leading to the execution of the Valeant Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the Valeant Term Sheet, the Stipulation, or the approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Settling Defendant's Releasees as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the Settling Defendant's Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Settling Defendant's Releasees or in any way referred to for any other reason as against any of the Settling Defendant's Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Settling Defendant's Releasees had meritorious defenses, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Amount or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Plaintiffs' Releasees, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or

proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

provided, however, that the Settling Parties and the Releasees and their respective counsel may refer to this Judgment and the Stipulation to effectuate the protections from liability granted hereunder and thereunder or to otherwise to enforce the terms of the Settlement.

17. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Settling Parties for purposes of the administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation Expenses by Class Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Settlement Class Members for all matters relating to the Action.

18. Separate orders shall be entered regarding approval of a plan of allocation and the motion of Class Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

19. **Modification of the Agreement of Settlement** – Without further approval from the Court, Plaintiffs and Valeant are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of

Settlement Class Members in connection with the Settlement. Without further order of the Court, Plaintiffs and Valeant may agree to reasonable extensions of time to carry out any provisions of the Settlement.

20. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Plaintiffs, the other Settlement Class Members, and Valeant, and the Settling Parties shall revert to their respective positions in the Action immediately prior to the execution of the Valeant Term Sheet on July 13, 2021 and shall promptly confer on a new scheduling stipulation to govern further proceedings in the Action, as provided in the Stipulation.

21. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this _____ day of _____, 2021.

The Honorable Michael A. Shipp
United States District Judge

Exhibit 1

List of Persons and Entities Excluded from the Settlement Class Pursuant to Request

1. Central Painting & Sandblasting, Inc.
Navarre, OH
2. Citation Oil & Gas Corp.
Houston, TX
3. Corporate One Federal Credit Union
Columbus, OH
4. Donegal Mutual Insurance Company
Marietta, PA
5. Windows LLC
c/o Renewal by Andersen Window Replacement
Carmel, IN

Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

PROPOSED JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, a consolidated class action is pending in this Court captioned *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG) (the “Action”);

WHEREAS, (a) plaintiffs AirConditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund, and the Detectives Endowment Association of New York City (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class (defined below); and (b) defendants Philidor Rx Services, LLC (“Philidor”), Andrew Davenport, and the Estate of Matthew S. Davenport (collectively, the “Philidor Defendants”) have entered into a Stipulation and Agreement of Settlement dated August 4, 2021 (the “Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against the Philidor Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated August 17, 2021 (the “Preliminary Approval Order”), this Court: (a) found, pursuant to Rule 23(e)(1)(B), that it (i) would likely be able to finally approve

the Settlement as fair, reasonable, and adequate under Rule 23(e)(2), (ii) would likely be able to certify the Settlement Class for purposes of the Settlement, and (iii) would likely be able to certify Plaintiffs as Class Representatives for the Settlement Class and appoint Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. as Class Counsel for the Settlement pursuant to Rule 23(g) of the Federal Rules of Civil Procedure; (b) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members; (c) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on December 2, 2021 (the “Settlement Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Philidor Defendants; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – For purposes of effectuating the Settlement, the Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Settling Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on August 5, 2021; and (b) the Notice and the Summary Notice, both of which were filed with the Court on October 28, 2021.

3. **Class Certification for Settlement Purposes** – The Court hereby certifies, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class consisting of all health insurance companies, health maintenance organizations, self-funded health and welfare benefit plans, other Third-Party Payors, and any other health benefit provider in the United States of America or its territories, that paid or incurred costs for Valeant's branded drug products in connection with a claim submitted by Philidor, a claim submitted by any pharmacy in which Philidor had a direct or indirect ownership interest, or a claim by any pharmacy for which the amount sought for reimbursement was alleged to be inflated as a result of Defendants' allegedly fraudulent scheme, during the Class Period, and allegedly suffered damages thereby. Excluded from the Settlement Class are Pharmacy Benefit Managers, Defendants, Defendants' successors and assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Settlement Class are any persons or entities listed on Exhibit 1 hereto who or which are excluded from the Settlement Class pursuant to request.

4. **Settlement Class Findings** – For purposes of the Settlement only, the Court finds that each element required for certification of the Settlement Class pursuant to Rule 23 of the

Federal Rules of Civil Procedure has been met: (a) the members of the Settlement Class are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Plaintiffs and Class Counsel have and will fairly and adequately represent and protect the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

5. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby appoints Plaintiffs as Class Representatives for the Settlement Class and appoints Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. as Class Counsel for the Settlement Class. Plaintiffs and Class Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of entering into and implementing the Settlement and have satisfied the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

6. **Notice** – The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Class Counsel’s motion for attorneys’ fees and Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation and/or Class Counsel’s motion for attorneys’ fees and Litigation Expenses; (v) their right to exclude

themselves from the Settlement Class; and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The Court further finds that the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, have been satisfied.

7. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23(e)(2) of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation, the amount of the Settlement, the Releases provided for therein, and the dismissal with prejudice of the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to Plaintiffs and the Settlement Class. Specifically, the Court finds that (a) Plaintiffs and Class Counsel have adequately represented the Settlement Class; (b) the Settlement was negotiated by the Settling Parties at arm's length between experienced counsel representing the interests of Plaintiffs, the Philidor Defendants, and the Settlement Class; (c) the relief provided for the Settlement Class under the Settlement is adequate taking into account the costs, risks, and delay of trial and appeal, the proposed means of distributing the Settlement Fund to the Settlement Class; and the proposed attorneys' fee award; and (d) the Settlement treats members of the Settlement Class equitably relative to each other. The Settling Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

8. All of the claims asserted against the Philidor Defendants in the Action by Plaintiffs and the other Settlement Class Members are hereby dismissed with prejudice as to the Philidor

Defendants. The Settling Parties shall bear their own costs and expenses, except as expressly provided in the Stipulation or otherwise agreed.

9. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on the Philidor Defendants, Plaintiffs, and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.

10. **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 11 below, upon the Effective Date, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against the Philidor Defendants and the other Settling Defendants' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Settling Defendants' Releasees.

(b) Without further action by anyone, and subject to paragraph 11 below, upon the Effective Date, the Philidor Defendants, on behalf of themselves, and their respective heirs,

executors, administrators, predecessors, successors, and assigns (and assignees of the foregoing), in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendants' Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This Release shall not apply to any person or entity listed on Exhibit 1 hereto.

11. Notwithstanding paragraphs 10(a) – (b) above, nothing in this Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

12. **Plan of Allocation** – The Court hereby finds and concludes that the formula for the calculation of the claims of Claimants as set forth in the proposed Plan of Allocation set forth in the Notice provides a fair and reasonable basis upon which to allocate the proceeds of the Valeant Net Settlement Fund among Settlement Class Members with due consideration having been given to administrative convenience and necessity. The Court hereby finds and concludes that the Plan of Allocation proposed by Plaintiffs is, in all respects, fair and reasonable to the Settlement Class Members, and approves the Plan of Allocation.

13. **Attorneys' Fees and Expenses** – The Court has carefully reviewed Lead Counsel's application for an award of attorneys' fees and expenses and hereby awards attorneys' fees to Lead Counsel for all Plaintiffs' Counsel in the amount of 30% of the Philidor Defendants Settlement Fund (or \$37,500.00, plus interest earned thereon) and total Litigation Expenses of \$720,335.39 (to be paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to those funds' relative sizes). Lead Counsel shall allocate the attorneys' fees awarded

amongst Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action.

14. The Court finds that the amount of attorneys' fees awarded is appropriate and that the amount of attorneys' fees awarded is fair and reasonable under either the "percentage-of-recovery" or lodestar method. In making this award of attorneys' fees and costs, the Court has considered the factors enumerated in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) and *Prudential Insurance*, 148 F.3d at 339 and found that:

(a) numerous Settlement Class Members who are eligible for payments will benefit from the Settlements that occurred due to the efforts of Lead Counsel;

(b) the requested fee has been reviewed and approved as reasonable by Plaintiffs that actively supervised the Action;

(c) copies of the Notice were mailed to over 41,000 potential Settlement Class Members stating that Lead Counsel would apply for attorneys' fees in an amount not to exceed 30% of the Settlement Funds, Litigation Expenses in an amount not to exceed \$750,000, and service awards for Plaintiffs in an amount not to exceed \$100,000, and no objections to the requested attorneys' fees, Litigation Expenses, or service awards were received;

(d) Plaintiffs' Counsel conducted the litigation and achieved the Settlements with skill, perseverance, and diligent advocacy;

(e) This Action involved complex factual and legal issues, and, in the absence of the Settlements, would involve further lengthy proceedings with an uncertain resolution if the case were to proceed;

(f) The risk of nonpayment was high, particularly given the complexity of the case, because Lead Counsel pursued this case on a contingent basis and received no compensation during the duration of the litigation;

(g) Plaintiffs' Counsel devoted over 16,200 hours, with a lodestar value of over \$9,438,000 to achieve the Settlements;

(h) The amount of fees requested is consistent with awards in similar cases and supported by public policy; and

(i) The amount of costs requested is fair and reasonable and necessary for the prosecution and settlement of the Action.

15. Each of the Plaintiffs, AirConditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc., and the Detectives Endowment Association of New York City, is awarded a service award of \$20,000 in compensation for its efforts in prosecuting the claims in the Action, to be paid from the Valeant Settlement Fund and Philidor Defendants Settlement Fund in proportion to their relative sizes. The service awards are in addition to any payments that Plaintiffs may be eligible for under the Plan of Allocation of the Net Settlement Funds of the Settlements.

16. **Use of this Judgment** – Neither this Judgment, the Term Sheet, the Stipulation (whether or not consummated and whether or not approved by the Court), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, the

Stipulation, or the approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Settling Defendants' Releasees as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the Settling Defendants' Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Settling Defendants' Releasees or in any way referred to for any other reason as against any of the Settling Defendants' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Settling Defendants' Releasees had meritorious defenses, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Amount or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Plaintiffs' Releasees, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

provided, however, that the Settling Parties and the Releasees and their respective counsel may refer to this Judgment and the Stipulation to effectuate the protections from liability granted hereunder and thereunder or to otherwise to enforce the terms of the Settlement.

17. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Settling Parties for purposes of the administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation Expenses by Class Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Settlement Class Members for all matters relating to the Action.

18. Separate orders shall be entered regarding approval of a plan of allocation and the motion of Class Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

19. **Modification of the Agreement of Settlement** – Without further approval from the Court, Plaintiffs and the Philidor Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further

order of the Court, Plaintiffs and the Philidor Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

20. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Plaintiffs, the other Settlement Class Members, and the Philidor Defendants and the Settling Parties shall revert to their respective positions in the Action on July 13, 2021 and shall promptly confer on a new scheduling stipulation to govern further proceedings in the Action, as provided in the Stipulation.

21. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this _____ day of _____, 2021.

The Honorable Michael A. Shipp
United States District Judge

Exhibit 1

List of Persons and Entities Excluded from the Settlement Class Pursuant to Request

1. Aetna Inc., on behalf of itself and
its health plan sponsor affiliates and subsidiaries
Hartford, CT
2. Central Painting & Sandblasting, Inc.
Navarre, OH
3. Citation Oil & Gas Corp.
Houston, TX
4. Corporate One Federal Credit Union
Columbus, OH
5. Donegal Mutual Insurance Company
Marietta, PA
6. Windows LLC
c/o Renewal by Andersen Window Replacement
Carmel, IN