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AirConditioning and Refrigeration Industry
Health and Welfare Trust Fund, Fire and
Police Health Care Fund, San Antonio, and
Plumbers Local Union No. 1 Welfare Fund*

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

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

Civil Action No. 3:16-cv-3087-MAS-LHG

District Judge Michael A. Shipp

Magistrate Judge Lois H. Goodman

Special Master Dennis M. Cavanaugh,
U.S.D.J. Ret.

**NOTICE OF PLAINTIFFS' MOTION FOR
APPROVAL OF DISTRIBUTION PLAN**

TO: All Counsel on ECF service list:

PLEASE TAKE NOTICE that in accordance with Federal Rule of Civil Procedure 23(e) and this Court’s Order Finally Approving Settlements (ECF No. 207) adopting the Report and Recommendation of the Special Master, Honorable Dennis M. Cavanaugh, U.S.D.J. (ret.) (the “Special Master's Report”) (ECF No. 204), 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 (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class, will and do hereby move this Court, before the Court-appointed Special Master, the Honorable Dennis M. Cavanaugh, for entry of the accompanying [Proposed] Order Approving Distribution Plan (“Class Distribution Order”). In further support of this motion, Plaintiffs submit: (i) the Declaration of Eric J. Miller in Support of Plaintiffs’ Motion for Approval of Distribution Plan (“Miller Declaration” or “Miller Decl.”) submitted on behalf of the Court-approved Claims Administrator, A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”); (ii) the Memorandum of Law in Support of Plaintiffs’ Motion for Approval of Distribution Plan; and (iii) all other papers and proceedings herein.

Among other things, the Class Distribution Order would: (i) approve the administrative determinations of A.B. Data accepting and rejecting Claims submitted in connection with the Settlements reached in the above-captioned Action; (ii) direct the distribution of the Net Settlement Funds to Claimants whose Claims are accepted by A.B. Data as valid and approved by the Court (“Authorized Claimants”), while maintaining a Reserve for any tax liability or claims administration-related contingencies that may arise; (iii) direct that distribution checks state that the check must be cashed within 90 days after the issue date; (iv) direct that Authorized

Claimants will forfeit all recovery from the Settlements if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the distribution; (vi) approve A.B. Data's fees and expenses incurred and estimated to be incurred in the administration of the Settlements; (vii) release claims related to the administration process; and (viii) authorize the destruction of Claim Forms and supporting documents at an appropriate time.

Pursuant to the terms of the Stipulations, Defendants have no interest in the relief sought by the motion. In addition, there are no disputes as to the Claims Administrator's disposition of any of the filed Claims, including claims that were rejected. Accordingly, Class Counsel respectfully submit that the motion is ripe for consideration by the Court and may be decided on the papers.

Dated: March 28, 2024

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(Ret.)

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

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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 (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class, respectfully move this Court for entry of the proposed Order Approving Distribution Plan (“Class Distribution Order”) for the proceeds of the Settlements¹ in the above-captioned securities class action (“Action”). The Distribution Plan is included in the accompanying Declaration of Eric J. Miller (“Miller Declaration” or “Miller Decl.”), submitted on behalf of the Court-approved Claims Administrator, A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”).²

The Class Distribution Order will, upon being entered by the Court, permit A.B. Data to make an Initial Distribution of the Settlements’ proceeds to eligible Claimants. Among other things, the Class Distribution Order will: (i) approve A.B. Data’s administrative determinations accepting and rejecting Claims submitted in connection with the Settlements; (ii) direct the Initial Distribution of the Net Settlement Funds to Claimants whose Claims are accepted by A.B. Data as valid and approved by the Court (“Authorized Claimants”), while maintaining a Reserve for any

¹ Plaintiffs previously reached a settlement with Valeant for \$23 million (the “Valeant Settlement”) and a settlement with Philidor, Andrew Davenport, and the Estate of Matthew S. Davenport for \$125,000 (the “Philidor Defendants Settlement” and, with the Valeant Settlement, (collectively, the “Settlements”), providing a total cash payment of \$23.125 million.

² Unless otherwise indicated in this memorandum, all terms with initial capitalization shall have the meanings ascribed to them in the Miller Declaration, the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the “Valeant Stipulation”), the Amendment to the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals Inc., dated November 22, 2021 (ECF No. 203-2) (the “Valeant Stipulation Amendment”), or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the “Philidor Defendants Stipulation”) (collectively, the “Stipulations”).

tax liability and claims administration-related contingencies that may arise; and (iii) approve A.B. Data's fees and expenses incurred and estimated to be incurred in the administration of the Settlements and the Initial Distribution.

Pursuant to the Stipulations, Defendants have no role in or responsibility for the administration of the Settlement Funds or processing of Claims, including determinations as to the validity of Claims or the distribution of the Net Settlement Funds. *See* Stipulations ¶¶ 18, 22, and 24; *see also* Notice App. A ¶ 11. In addition, there are no disputes as to the disposition of the Claims Administrator concerning any of the filed Claims, including claims that were rejected. As such, the motion is ripe for determination and Class Counsel respectfully submit that a hearing on this motion is not required.

I. BACKGROUND

On February 22, 2022, the Court entered the Order Finally Approving Settlements (ECF No. 207) adopting the Report and Recommendation of the Special Master, Honorable Dennis M. Cavanaugh, U.S.D.J. (ret.) (the "Special Master's Report") (ECF No. 204), that approved the Settlements totaling \$23.125 million in cash and approved the Plan of Allocation for the Net Settlement Funds.³ The "Effective Date" of the Settlements under paragraph 32 of both Stipulations has occurred, and, accordingly, the Net Settlement Funds may be distributed to Authorized Claimants. In accordance with paragraph 29 of the Stipulations, Plaintiffs respectfully request that the Court enter the Class Distribution Order and approve the Distribution Plan.

³ The Net Settlement Funds are comprised of the net proceeds of the \$23,000,000 settlement fund created by Valeant Stipulation (the "Valeant Net Settlement Fund") and the net proceeds of the \$125,000 settlement fund created by the Philidor Defendants Stipulation (the "Philidor Defendants Net Settlement Fund").

In accordance with the Court’s August 17, 2021 Orders Preliminarily Approving Settlement and Providing for Notice (ECF Nos. 196 and 197) (the “Preliminary Approval Orders”), A.B. Data mailed the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’ Fees and Litigation Expenses (“Notice”) and the Proof of Claim Form (“Claim Form” and, collectively with the Notice, the “Notice Packet”) to potential Settlement Class Members. Miller Decl. ¶ 2. A.B. Data has disseminated Notice Packets to potential Settlement Class Members via First-Class Mail to the 41,424 entities included in the TPP Mailing List and via 1,211 emails to TPPs and their representatives where email addresses were available. *Id.* ¶ 4. The Notice informed Settlement Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Funds, they were required to submit a properly executed Claim Form postmarked no later than January 6, 2022. *Id.* ¶ 7.

II. CLAIMS ADMINISTRATION

As set forth in the Miller Declaration, through March 26, 2024, A.B. Data received and processed 1,218 Claims. Miller Decl. ¶ 7. All Claims received through March 26, 2024, have been fully processed in accordance with the Stipulations and the Court-approved Plan of Allocation included in the Notice (*see id.*), and A.B. Data has worked with Claimants to help them perfect their Claims. *See id.* ¶¶ 9-20. Many of the Claims were initially deficient or ineligible for one or more reasons, including being incomplete, not signed, not properly documented, or otherwise deficient, which required substantial follow-up work by A.B. Data. *Id.* ¶¶ 10, 11.

If A.B. Data determined a Claim to be defective or ineligible, A.B. Data sent a letter or an email to the Claimant or filer, as applicable, describing the defect(s) or condition(s) of ineligibility in the Claim and the steps necessary to cure any curable defect(s) in the Claim (“Deficiency

Notices”). *Id.* ¶¶ 13-16. The Deficiency Notices advised the Claimant or filer that the appropriate information or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Notice or A.B. Data would recommend the Claim for rejection to the extent the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 15, 16, 21. Examples of the Deficiency Notices are attached as Exhibits A, B, and C to the Miller Declaration.

A.B. Data conducted a detailed review of the Claims, received including a review of supporting documentation on all claims with a Recognized Claim above \$100,000, by reviewing the purchase information included with each Claim to verify the amount claimed and that the purchases were made during the period from January 2, 2013 through November 9, 2015, for Valeant-branded drugs purchased from or fulfilled by a Philidor Network Pharmacy. Miller Decl. ¶¶ 19-20.

Of the 1,218 Claims that are the subject of this motion, A.B. Data has determined that 730 Claims are acceptable in whole or in part, and that 488 Claims should be rejected because they are ineligible for payment from the Net Settlement Funds. Miller Decl. ¶¶ 23-26. Of the 488 rejected Claims, 401 were Claims that were submitted without any purchase amount; 48 were duplicate Claims; 11 Claims were withdrawn by the Claimant; 11 Claims provided an insufficient response to AB Data’s audit; and 7 were Claims that did not provide a valid Philidor Network Pharmacy in their transactional data. *Id.* ¶ 26. Plaintiffs respectfully request that the Court approve A.B. Data’s administrative determinations accepting and rejecting Claims as set forth in the Miller Declaration.

A. No Disputed Claims

A.B. Data carefully reviewed Claimants’ and filers’ responses to the Deficiency Notices and worked with them to resolve deficiencies where possible. *Id.* ¶ 17. Consistent with paragraph 25(e) of the Stipulations, the Deficiency Notices specifically advised the Claimant or filer of the

right, within twenty (20) days after the mailing or emailing of the Deficiency Notice, to contest the rejection of the Claim and request Court review of A.B. Data's administrative determination to reject the Claim. *Id.* ¶ 15, and Exhibit A. A.B. Data did not receive any requests for Court review of its administrative determinations. *Id.* ¶ 18.

B. Late Claims

The 1,218 Claims received through March 26, 2024, include 35 Claims that were postmarked or received after January 6, 2022, the Court-approved Claim submission deadline. *Id.* ¶¶ 23, 25. Those late Claims have been fully processed, and 15 of them are, but for their late submission, otherwise eligible to participate in the Settlements. *Id.* Although these 15 Claims were late, they were received while the processing of timely Claims was ongoing. The processing of these late Claims did not delay the completion of the Claims administration process or the distribution of the Net Settlement Funds. The Court has discretion to accept Claims received after the Claim submission deadline. *See* Preliminary Approval Orders ¶ 10; Notice App. A ¶ 4. Plaintiffs respectfully submit that, when the equities are balanced, it would be unfair to prevent an otherwise eligible Claim from participating in the distribution of the Net Settlement Funds solely because it was received after the Court-approved Claim submission deadline if it were submitted while timely Claims were still being processed.

To facilitate the efficient distribution of the Net Settlement Funds, however, there must be a final cut-off date after which no other Claims may be accepted. Accordingly, Plaintiffs respectfully request that the Court order that any *new* late Claims (and any requested adjustments to previously filed Claims that would result in an increased Recognized Claim Amount) received after March 26, 2024, shall be barred (*see also* Miller Decl. ¶ 29(f))—subject to the proviso that if Class Counsel later determine that an additional distribution is not cost-effective (*see* Miller Decl.

¶ 29(e)), then any post-March 26, 2024 Claims, Claimants may, at the discretion of Class Counsel (and to the extent possible after paying remaining administrative fees and expenses owed), be paid on their new (or adjusted) Claims on a *pro rata* basis so as to bring them into parity with other Authorized Claimants who have cashed their distribution checks.

III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

The Court-approved Claims Administrator for the Settlements, A.B. Data, was responsible for, among other things, disseminating notice of the Settlements to the Settlement Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Funds to Authorized Claimants. Miller Decl. ¶ 2. A.B. Data's fees and expenses for its work performed through January 31, 2024, are \$180,990.04, and its estimated fees and expenses for work to be performed in connection with the Initial Distribution are \$21,841.75, which together total \$202,831.79. *Id.* ¶ 28. Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Funds exceed the actual cost, the excess will be returned to the Net Settlement Funds and will be available for subsequent distribution to Authorized Claimants. *Id.* To date, A.B. Data has received payment in the amount of \$140,063.34 for its fees and expenses. *Id.* Accordingly, there is an outstanding balance of \$62,768.45 payable to A.B. Data, which amount includes the estimated fees and expenses to be incurred by A.B. Data in connection with the Initial Distribution. *Id.* Class Counsel reviewed A.B. Data's invoices and respectfully request on behalf of Plaintiffs that the Court approve all of A.B. Data's fees and expenses.

IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUNDS

A. Initial Distribution of the Net Settlement Funds

Under the proposed Distribution Plan, A.B. Data will distribute 95% of the Net Settlement Funds after deducting: (i) all payments previously allowed, (ii) payments approved by the Court on this motion, and (iii) any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees (*i.e.*, the Initial Distribution). *See* Miller Decl. ¶ 29(a). In the Initial Distribution, A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Funds were to be distributed now. *Id.* ¶ 29(a)(1). A.B. Data will first determine each Authorized Claimant's *pro rata* share of the total Net Settlement Funds based on the Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *Id.* A.B. Data will eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$100.00, as these Claimants will not receive any payment from the Net Settlement Funds and will be so notified by A.B. Data. *Id.* ¶ 29(a)(2). A.B. Data will then recalculate the *pro rata* share of the Net Settlement Funds for Authorized Claimants who would have received \$100.00 or more based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have received \$100.00 or more. *Id.* ¶ 29(a)(3). From the remaining balance of the Net Settlement Funds, 95% will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$100.00 or more. *Id.* ¶ 29(a)(4). The remaining 5% of the Net Settlement Funds will be held in reserve (the "Reserve") to address any tax liability and claims administration-related contingencies that may arise. *Id.* To the extent the Reserve is not depleted, the remainder will be distributed in the Second Distribution. *Id.*

To encourage Authorized Claimants to cash their checks promptly, Plaintiffs propose that all distribution checks bear the notation, “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” *Id.* ¶ 29(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in paragraph 29(b) of the Miller Declaration will irrevocably forfeit all recovery from the Settlements, and the funds allocated to these stale-dated checks will be available to be redistributed to other Authorized Claimants in a subsequent distribution, as described below. *Id.* ¶ 29(c).

B. Additional Distribution(s) of the Net Settlement Funds

After A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than seven (7) months after the Initial Distribution, A.B. Data will, after consulting with Class Counsel, conduct the Second Distribution of the Net Settlement Funds. *Id.* ¶ 29(d). In the Second Distribution, any amount remaining in the Net Settlement Funds, after deducting any unpaid fees and expenses incurred, will be distributed to all Authorized Claimants (other than Claims Paid in Full) who cashed their Initial Distribution checks and would receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. *Id.* If any funds remain in the Net Settlement Funds after the Second Distribution, and if cost-effective, subsequent distributions will take place at six-month intervals. *Id.* When Class Counsel, in consultation with A.B. Data, determine that a further distribution is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after March 26, 2024, A.B. Data will process those Claims. *Id.* ¶ 29(e). Any of these Claims that are otherwise valid, as well as any earlier received Claims for which an upward adjustment was received after March 26, 2024, may be paid in accordance with paragraph 29(f) of the Miller

Declaration. *Id.* If any funds remain in the Net Settlement Funds after payment of these Claims and any unpaid fees or expenses, Class Counsel propose that such remaining funds (if there are any) be contributed to the National Consumer Law Center (“NCLC”). Class Counsel propose that the NCLC be designated as the “non-sectarian, not-for-profit 501(c)(3) organization to be recommended by Class Counsel” referenced in the Court-approved Plan of Allocation. *See* Notice App. A ¶ 10.

NCLC is a private, non-sectarian, non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. *Financials*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/about-us/financials/> (last visited Mar. 27, 2024). For over 50 years, NCLC has worked to build and strengthen a legal network to provide legal services addressed to two main goals: improving access to the legal system for all people and enabling advocates to seek remedies for low-income people where needed. *See History*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/about-us/history/> (last visited Mar. 27, 2024). NCLC’s lawyers provide policy analysis, advocacy, litigation, expert-witness services, and training for consumer advocates throughout the United States. *See Mission*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/about-us/mission/> (last visited Mar. 27, 2024). “NCLC uses its unmatched expertise in consumer law to protect consumers from exploitation and expand access to fair credit by advocating for laws, rules, and regulations that benefit real people: those with low incomes, older people, students, people of color, and others who have been abused, deceived, discriminated against, or left behind in our economy.” *About Us*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/about-us/> (last visited Mar. 27, 2024). NCLC has received “the highest ratings from charity watchdogs” and “welcomes *cy pres* designations of unclaimed settlement funds from class action lawsuits, which are used to support our consumer rights work advancing the core

interests of underlying class members.” *History*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/about-us/history/> (last visited Mar. 27, 2024), & *Cy Pres*, NATIONAL CONSUMER LAW CENTER, <https://nclc.org/get-involved/ways-to-give/cy-pres/> (last visited Mar. 27, 2024). NCLC has repeatedly been approved as a *cy pres* recipient of residual balances of net settlement funds in settlements in the United States District Court for the District of New Jersey. *See, e.g.*, Amended Final Approval Order of the Class Action Settlement, *Adeline Francois v Forster & Garbus, LLP*, No. 3 21-cv 20664 (D.N.J. Dec. 9, 2022), ECF No. 23, attached hereto as **Exhibit 1**; *Griffin v. ML Zager P.C.*, 2017 WL 3872401, at *10 (D.N.J. Sept. 1, 2017); *Weiss v. Regal Collections*, 2006 WL 2038493, at *1 (D.N.J. July 19, 2006).

V. RELEASE OF CLAIMS

In order to allow the full and final distribution of the Net Settlement Funds, it is necessary to (i) bar any further claims against the Net Settlement Funds beyond the amounts allocated to Authorized Claimants, and (ii) provide that all persons involved in any aspect of Claims processing, or who are involved in the administration or taxation of the Settlement Funds or the Net Settlement Funds, be released and discharged from all claims arising out of that involvement. *See* Stipulations ¶ 29. Accordingly, Plaintiffs respectfully request that the Court release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlements, or who are otherwise involved in the administration or taxation of the Settlement Funds or the Net Settlement Funds from all claims arising out of that involvement, and bar all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Funds, from making any further claims against the Net Settlement Funds, Plaintiffs, Class Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Plaintiffs or Class Counsel in

connection with the administration or taxation of the Settlement Funds or the Net Settlement Funds, or any other person released under the Settlements beyond the amounts allocated to Authorized Claimants.

Courts have repeatedly approved similar releases in connection with the distribution of settlement proceeds. *See, e.g., Fernandez v. Knight Capital Grp., Inc.*, 2016 WL 7468089, at *3 (D.N.J. June 16, 2016) (“The administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and, therefore, all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they have claimed against, they received, or they are to receive payment from the Net Settlement Fund, are barred from making any further claims against the Net Settlement Fund or Lead Plaintiff, Counsel for Lead Plaintiff, the Claims Administrator, the escrow agent or any other agent retained by Lead Plaintiff or Lead Plaintiff’s Counsel, and are bound by all of the terms of the Stipulation, including the terms of the Final Judgment, and will be barred from bringing any action against the Released Parties concerning the Released Claims or in connection with the administration of the Settlement, or to claim against the Net Settlement Fund for any amount greater than that allocated to such Class Member as a result of its submission of a valid proof of claim.”).

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Motion for Approval of Distribution Plan and enter the [Proposed] Order Approving Distribution Plan.

Dated: March 28, 2024

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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)

**DECLARATION OF ERIC J. MILLER IN SUPPORT OF
PLAINTIFFS' MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

I, Eric J. Miller, declare as follows:

1. I am a Senior Vice President of A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"), which has its corporate office in Milwaukee, Wisconsin. I am over 21 years of age and am not a party to the above-captioned action (the "Action").¹ I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. Pursuant to the Court's August 17, 2021 Orders Preliminarily Approving Settlement and Providing for Notice (ECF Nos. 196 and 197) (the "Preliminary Approval Orders"), A.B. Data was authorized by the Court to act as the Claims Administrator in connection with the Settlements of the Action. As Claims Administrator, A.B. Data has, among other things: (i) mailed the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys' Fees and Litigation Expenses (the "Notice") and the Proof of Claim Form (the "Claim Form" and, collectively with the Notice, the

¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation"), the Amendment to the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals Inc., dated November 22, 2021 (ECF No. 203-2) (the "Valeant Stipulation Amendment"), or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation") (collectively, the "Stipulations").

“Notice Packet”) to potential Settlement Class Members; (ii) created and continues to maintain a toll-free helpline for inquiries during the course of the administration; (iii) created and continues to maintain a website for the Settlements (the “Settlement Website”) and posted case-specific documents on it; (iv) caused the Summary Notice to be published; (v) provided, upon request, additional copies of the Notice Packet to potential Settlement Class Members; and (vi) received and processed each Claim Form received by the Claims Administrator (a “Claim”).

3. On February 22, 2022, the Court granted final approval of the Settlements in its Order Finally Approving the Settlements (ECF No. 207) and Memorandum Opinion Finally Approving the Settlements (ECF No. 206). A.B. Data has completed processing all Claims received through March 26, 2024, in accordance with the terms of the Stipulations and the Court-approved Plan of Allocation set forth in the Notice, and hereby submits its administrative determinations accepting and rejecting the Claims in preparation for a distribution of the Net Settlement Funds² to Authorized Claimants. A.B. Data also presents this declaration in support of Plaintiffs’ Motion for Approval of Distribution Plan.

DISSEMINATION OF NOTICE

4. As more fully described in the Declaration of Eric J. Miller Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date (ECF No. 201-6) (“Mailing Decl.”), on September 8, 2021, A.B. Data caused Notice Packets to be sent by First-Class Mail to the 41,424 entities

² The Net Settlement Funds are comprised of the net proceeds of the \$23,000,000 settlement fund created by Valeant Stipulation (the “Valeant Net Settlement Fund”) and the net proceeds of the \$125,000 settlement fund created by the Philidor Defendants Stipulation (the “Philidor Defendants Net Settlement Fund”) that combined together provide a total cash payment of \$23.125 million.

included in its TPP Mailing List. In addition, A.B. Data sent 1,211 emails to TPPs and their representatives where email addresses were available. Mailing Decl. ¶¶ 4, 5.

5. A.B. Data established and continues to maintain the Settlement Website (www.ValeantTPPSettlement.com) and a toll-free telephone helpline (1-877-888-6363) to assist potential Settlement Class Members. The Settlement Website, which provides access to important documents relevant to the Settlements, and the telephone helpline enable Settlement Class Members to obtain information about the Settlements. In connection with establishing and maintaining the Settlement Website and toll-free telephone helpline, A.B. Data, among other things, formulated a system to ensure that proper responses were provided to all telephone and electronic inquiries. That work included training telephone agents to respond to inquiries specific to the Settlement; developing a series of common questions and the answers thereto known as Frequently Asked Questions or “FAQs”; loading key documents onto the Settlement Website; and programming the Settlement Website to permit the viewing and downloading of those documents.

6. In accordance with paragraph 7(c) of the Preliminary Approval Orders, beginning on September 22, 2021, A.B. Data effectuated further notice efforts including a 30-day digital banner ad campaign on the following websites: ThinkAdvisor.com/life-heath; BenefitNews.com; and SHRM.org. Mailing Decl. ¶ 6. Further, in accordance with Paragraph 7(d) of the Preliminary Approval Orders, A.B. Data caused the Summary Notice to be released via *PR Newswire* on September 22, 2021. Mailing Decl. ¶ 7.

PROCEDURES FOLLOWED IN PROCESSING CLAIMS

7. Under the terms of the Preliminary Approval Orders and as set forth in the Notice, each Settlement Class Member who wished to be eligible to receive a distribution from the Net

Settlement Funds was required to complete and submit to A.B. Data a properly executed Claim Form postmarked (if mailed) or online no later than January 6, 2022, together with adequate supporting claims data and information in support of the purchase amounts reported in the Claim Form.

8. In preparation for receiving and processing Claims, A.B. Data: (i) conferred with Class Counsel to define the guidelines for processing Claims; (ii) created a unique database to store Claim details, images of Claims, and supporting documentation (the “Settlement Database”); (iii) trained staff in the specifics of the Settlements so that Claims would be properly processed; (iv) formulated a system so that telephone and email inquiries would be properly responded to; (v) developed various computer programs and screens for entry of Settlement Class Members’ identifying information and their purchase information; and (vi) developed a “calculation module” that would calculate Recognized Claims pursuant to the Court-approved Plan of Allocation for the Net Settlement Funds stated in the Notice.

PROCESSING CLAIMS

9. Through March 26, 2024, A.B. Data has received and fully processed 1,218 Claims (the “Presented Claims”).

10. Of the 1,218 Presented Claims, 451 are Claims that were submitted on paper and 767 are Claims submitted via the online filing component of the Settlement Website. Once received, paper Claims were opened and prepared for scanning. This process included unfolding documents, removing staples, copying nonconforming-sized documents, and sorting documents. This manual task of preparing the paper Claims is very laborious and time intensive. Once prepared, paper Claims were scanned into the Settlement Database together with all submitted documentation. Subsequently, each Claim was assigned a unique Claim number. Once scanned, the information from each Claim Form, including the Claimant’s contact information, and the

Claimant's purchase information listed on the Claim Form, was entered into the Settlement Database. Once entered into the Settlement Database, each Claim was reviewed to verify that all required information had been provided. Any purchase data provided by the Claimant in support of the Claim was reviewed to verify the purchases were for the correct Valeant- branded drug purchased from or fulfilled by a Philidor Network Pharmacy during the period from January 2, 2013 through November 9, 2015.

11. A.B. Data's data-entry staff utilized internal codes ("flags") to identify and classify deficiency or ineligibility conditions existing within those Claims. Appropriate flags were assigned to the Claims as they were processed. For example, where a Claim was submitted by a Claimant did not properly sign the Claim Form, that Claim would receive a flag that denoted the deficiency. Similar defect flags were used to denote other ineligible conditions, such as duplicate Claims. These flags would indicate to A.B. Data that the Claimant was not eligible to receive any payment from the Net Settlement Funds with respect to that Claim unless the deficiency was cured in its entirety.

EXCLUDED PERSONS

12. A.B. Data also reviewed all Claims to ensure that they were not submitted by or on behalf of persons or entities excluded from the Settlement Class to the extent that the identities of such persons or entities were known to A.B. Data through the list of Defendants and other excluded persons and entities set forth in the Stipulations and the Notice and from the Claimants' certifications on the Claim Forms. A.B. Data also reviewed all Claims against the list of persons who were excluded from the Settlement Class pursuant to request as set forth in Exhibits 7 and 8 of my Supplemental Declaration Regarding: (A) Mailing of the Notice and Claim Form; and (B) Report on Requests for Exclusion Received (ECF No. 203-1).

THE DEFICIENCY PROCESS

13. The “Deficiency Process,” which primarily involved mailing letters to Claimants and responding to communications from Claimants by email and/or telephone, was intended to assist Claimants in properly completing their otherwise deficient submissions so that they could be eligible to participate in the Settlements.

14. Of the 1,218 Presented Claims received, A.B. Data initially determined that deficient Claims were those for which the Claimant:

- (a) omitted the Federal Employer Identification Number (“FEIN”) for the Claimant;
- (b) did not sign the Claim Form;
- (c) did not list the total amount paid or incurred for Valeant-branded drug purchased from or fulfilled by a Philidor Network Pharmacy during the period from January 2, 2013 through November 9, 2015;
- (d) did not purchase any Valeant-branded drugs purchased from or fulfilled by a Philidor Network Pharmacy during the period from January 2, 2013 through November 9, 2015; or
- (e) if their total net claim amount was more than \$100,000, did not include the necessary supporting documentation as required in the Claim Form.

15. A.B. Data sent letters and e-mails, where an email address was provided with the Claim, describing the defect(s) in the Claims and what steps, if any, were necessary to cure the defect(s) in these Claims. These letters (the “Deficiency Letters”) advised Claimants that submission of appropriate information and/or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the letter or the Claim would be recommended for rejection to the extent that the deficiency condition was not cured. The Deficiency Letter also

advised Claimants of their right to contest these administrative determinations, and that Claimants were required to submit written statements to A.B. Data requesting Court review of their Claims and setting forth the basis for such requests. Examples of the Deficiency Letters are attached hereto as **Exhibit A**.

16. In addition, A.B. Data sent letters and e-mails, where an email address was provided with the Claim, to Claimants whose Claims were determined to be ineligible because the Claim was duplicative of a previously-filed Claim (for example, where a Claim was submitted online to A.B. Data and the original hard copy was sent by mail and received at a later date), the Claim was submitted by a consumer, or the Claim was withdrawn by the filer. Examples of these letters (the “Ineligibility Letters”) are attached hereto as **Exhibit B**.

17. Claimants’ responses to Deficiency Letters and Ineligibility Letters were scanned into the Settlement Database and associated with the corresponding Claims. The responses were then carefully reviewed and evaluated by A.B. Data’s team of processors. If a Claimant’s response corrected the defect(s) in a Claim, A.B. Data manually updated the Settlement Database to reflect the changes in the status of the Claim.

NO DISPUTED CLAIMS

18. As noted above, Claimants were advised that they had the right to contest A.B. Data’s administrative determination of deficiencies or ineligibility in their Claim within twenty (20) days from the date of notification and that they could request that the dispute be submitted to the Court for review. More specifically, Claimants were advised in the Deficiency Letter that, if they disputed A.B. Data’s determination, they had to provide a statement of reasons indicating the grounds for contesting the determination, along with supporting documentation, and if the dispute concerning the Claim could not otherwise be resolved, Class Counsel would thereafter present the

request for review to the Court for a final determination. A.B. Data did not receive any requests for Court review of its administrative determinations.

AUDITS

19. A.B. Data audited all Claims listing purchases over \$100,000 by reviewing the purchase information included with each Claim to verify the amount claimed and that the purchases were made during the period from January 2, 2013 through November 9, 2015, for Valeant-branded drugs purchased from or fulfilled by a Philidor Network Pharmacy. A.B. Data also reviewed documentation for Claims under \$100,000 that provided purchase information although they were not required to furnish such documentation. As a result of these audits and based on the documentation submitted, A.B. Data adjusted some Claim amounts upward or downward. A.B. Data notified the Claimants, in writing, of any adjustment to their Claim and provided them with an opportunity to dispute the findings by responding with any additional documentation to support their position.

20. All Claims were subject to review and/or audit by the Claims Administrator. A.B. Data selected Claims for additional audit, in consultation with Class Counsel, where: a) the Claimant submitted a Claim just below the \$100,000 required documentation threshold; b) the claimed amount appeared high compared to similar-sized entities; c) third-party filing entities filed multiple Claims lacking sufficient supporting documents; and/or d) members of A.B. Data's staff identified a Claim that was potentially fraudulent.

21. A.B. Data sent letters by mail, and e-mail, if available, to each of these Claimants requesting that they provide additional documentation to further support the amount of purchases. The letter advised the Claimant that failure to provide the required information would result in the disallowance of their Claim. A sample of this letter is attached hereto as **Exhibit C**.

A.B. Data reviewed and processed the responses to these letters. A.B. Data updated the Claim records to the extent sufficient documentation was provided.

22. In aggregate, A.B. Data sent over 150 letters to Claimants by First-Class U.S. Mail and, in many cases, also sent emails and placed telephone calls to the Claimants in an effort to resolve the problem that rendered the Claim deficient or ineligible.

RECOMMENDATIONS FOR APPROVAL AND REJECTION

23. As noted above, the number of Presented Claims in this motion is 1,218.

A. Timely Submitted and Valid Claims

24. A total of 1,183 Claims were received or postmarked on or before January 6, 2022, the Court-approved Claim submission deadline, of which 715 Claims were determined by A.B. Data to be eligible to participate in the Settlement and are recommended for approval (“Timely Eligible Claims”). The total Recognized Claim amount for these Timely Eligible Claims is \$237,866,910.42.

B. Late But Otherwise Eligible Claims

25. A total of 35 Claims were received or postmarked after January 6, 2022, the Court-approved Claim submission deadline, but received on or before March 26, 2024. Of those 35 late Claims, 15 were determined by A.B. Data to be otherwise eligible and are recommended for approval (“Late But Otherwise Eligible Claims”). The total Recognized Claim amount for these Late But Otherwise Eligible Claims is \$4,600,022.46.

C. Rejected Claims

26. After the responses to Deficiency and Ineligibility Letters were processed, a total of 488 Claims remain recommended for rejection by the Court (“Rejected Claims”) for the following reasons:

- (a) 58 Duplicate Claims;

- (b) 11 Claim Withdrawn;
- (c) 408 Deficient Claims Never Cured (representing 401 claims lacking a purchase amount, and 7 claims that did not provide valid pharmacies in their transactional data); and
- (d) 11 Claims with Insufficient Response to Audit.

D. Lists of All Presented Claims

27. Attached hereto as **Exhibits D** through **F** are listings of all the Presented Claims.

The names of these entities have been redacted to protect their privacy:

- (a) **Exhibit D** lists the Timely Eligible Claims and shows each Claimant's Recognized Claim;
- (b) **Exhibit E** lists the Late But Otherwise Eligible Claims and shows each Claimant's Recognized Claim; and
- (c) **Exhibit F** lists the Rejected Claims and the reasons for rejection.

FEES AND DISBURSEMENTS

28. A.B. Data agreed to be the Claims Administrator in exchange for payment of its fees and out-of-pocket expenses. Class Counsel received reports on and invoices for the work A.B. Data performed with respect to the provision of notice and administration of the Settlements. Attached hereto as **Exhibit G** are copies of A.B. Data's invoices for its work performed on behalf of the Settlement Class as well as an estimate for the work that will be performed and the costs that will be incurred in connection with the initial distribution of the Net Settlement Funds. Should the estimate of fees and expenses to conduct the initial distribution of the Net Settlement Funds exceed the actual cost, the excess will be returned to the Net Settlement Funds and will be available for subsequent distribution to Authorized Claimants. As set forth in these invoices, A.B. Data's total fees and expenses for this matter through January 31, 2024, are

\$180,990.04. A.B. Data anticipates that its fees and expenses for the work performed in conjunction with the initial distribution of the Net Settlement Funds will be \$21,841.75. To date, A.B. Data has received \$140,063.34 for its fees and expenses. Accordingly, there is an outstanding balance of \$62,768.45 payable to A.B. Data from the Settlement Funds, which includes the estimate for completing the initial distribution.

DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUNDS

29. Should the Court concur with A.B. Data's determinations concerning the provisionally accepted and rejected Claims, including the Late But Otherwise Eligible Claims, A.B. Data recommends the following distribution plan (the "Distribution Plan"):

(a) A.B. Data will conduct an initial distribution (the "Initial Distribution") of the Net Settlement Funds, after deducting all payments approved by the Court, and after payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve to address any tax liability and claims administration-related contingencies that may arise, as follows:

(1) A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Funds were to be distributed now. In accordance with the Court-approved Plan of Allocation, A.B. Data will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Funds based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *See* Notice Appendix A ¶ 8.

- (2) A.B. Data will, pursuant to the terms of the Plan of Allocation, eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$100.00. *See id.* ¶ 9. These Claimants will not receive any payment from the Net Settlement Funds and will be so notified by A.B. Data.
- (3) After eliminating Claimants who would have received less than \$100.00, A.B. Data will recalculate the *pro rata* share of the Net Settlement Funds for Authorized Claimants who would have received \$100.00 or more. A “Distribution Amount” will be calculated for each of these Authorized Claimants, which shall be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants who would have received \$100.00 or more, multiplied by the total amount in the Net Settlement Funds. *See id.* ¶ 8.³
- (4) 95% of the remaining balance of the Net Settlement Funds will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$100.00 or more. The remaining 5% of the Net Settlement Funds will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise following the Initial Distribution. To the extent the

³ A Claim was submitted by Aetna, Inc. (“Aetna”), an entity that was excluded from the Settlement Class with respect to the Philidor Defendants Settlement but not with respect to the Valeant Settlement. *See* ECF No. 203-1, at 34-36. With respect to this Claim (Claim No. 128070048), the Distribution Amount will be based on a *pro rata* only with respect to the \$23 million Valeant Settlement, and not the \$125,000 Philidor Defendants Settlement.

Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (d) below.

- (b) To encourage Authorized Claimants to deposit their payments promptly, all distribution checks will bear a notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” For Authorized Claimants whose checks are returned as undeliverable, A.B. Data will endeavor to locate new addresses through reasonable methods. Where a new address is located, A.B. Data will update the Settlement Database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event a distribution check is lost or damaged or otherwise requires reissuance, A.B. Data will issue replacements. Distribution reissues will be undertaken only upon written instructions from the Authorized Claimant, provided that the Authorized Claimant returns the previous check where appropriate. For all checks, A.B. Data will void the initial payment prior to reissuing a payment. In order not to delay further distributions to Authorized Claimants who have timely cashed their checks, A.B. Data’s outreach program shall end thirty (30) days after the initial void date or as otherwise determined in consultation with Class Counsel. Authorized Claimants will be informed that, if they do not cash their Initial Distribution checks within ninety (90) days of the mail date, or they do not cash check reissues within thirty (30) days of the mailing of such reissued check, their check will lapse, their entitlement to recovery will be irrevocably forfeited, and the funds will

be reallocated to other Authorized Claimants. Reissue requests for lost or damaged checks will be granted after the void date on the checks as long as the request for the reissue is received no later than forty-five (45) days prior to the next planned distribution. Requests for reissued checks in connection with any subsequent distributions (should such distributions occur) will be handled in the same manner.

- (c) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth above will irrevocably forfeit all recovery from the Settlements. The funds allocated to all such stale-dated checks will be available for distribution to other Authorized Claimants in the second distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distribution checks, should such distributions occur, within the time allotted or on the conditions set forth above will irrevocably forfeit any further recovery from the Net Settlement Funds.
- (d) Consistent with the Court-approved Plan of Allocation, after A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, which efforts shall consist of the follow-up efforts described above, but not earlier than seven (7) months after the Initial Distribution, A.B. Data will, after consulting with Class Counsel, conduct a second distribution of the Net Settlement Funds (the “Second Distribution”). *See id.* ¶ 10. Any amounts remaining in the Net Settlement Funds after the Initial Distribution, including from the Reserve and the

funds allocated for all void stale-dated checks, after deducting A.B. Data's unpaid fees and expenses incurred in connection with administering the Settlements, including A.B. Data's estimated costs of the Second Distribution, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, any escrow fees, and appropriate reserves, will be distributed to all Authorized Claimants in the Initial Distribution who cashed their distribution checks and who would receive at least \$10.00 in the Second Distribution based on their *pro rata* share of the remaining funds. *See id.* Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in six-month intervals until Class Counsel, in consultation with A.B. Data, determine that further distribution is not cost-effective. *See id.*

- (e) At such time as Class Counsel, in consultation with A.B. Data, determine that further distribution of the funds remaining in the Net Settlement Funds is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after March 26, 2024, those Claims will be processed, and any otherwise valid Claims received after March 26, 2024, as well as any earlier-received Claims for which an adjustment was received after March 26, 2024, that resulted in an increased Recognized Claim, will be paid in accordance with subparagraph (f) below. If any funds remain in the Net Settlement Funds after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Funds, after payment of any unpaid

fees or expenses incurred in connection with administering the Net Settlement Funds and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to the National Consumer Law Center (“NCLC”), a non-sectarian, not-for-profit 501(c)(3) organization. *See id.*

- (f) No new Claims may be accepted after March 26, 2024, and no further adjustments to Claims received on or before March 26, 2024, that would result in an increased Recognized Claim may be made for any reason after March 26, 2024, subject to the following exception. If Claims are received or modified after March 26, 2024 that would have been eligible for payment or additional payment under the Plan of Allocation if timely received, then at the time that Class Counsel, in consultation with A.B. Data, determine that an additional distribution is not cost-effective as provided in subparagraph (e) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Funds and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, such Claimants, at the discretion of Class Counsel and to the extent possible, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks.
- (g) Unless otherwise ordered by the Court, A.B. Data may destroy the paper copies of the Claims and all supporting documentation one (1) year after the

Initial Distribution, and one (1) year after all funds have been distributed may destroy the electronic copies of the same.

CONCLUSION

30. A.B. Data respectfully requests that the Court enter the Class Distribution Order approving its administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Plan. A.B. Data further respectfully submits that its unpaid fees and expenses, as reflected on the invoices attached hereto as **Exhibit G**, should be approved for payment from the Settlement Funds.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 28th day of March 2024 at Palm Beach Gardens, Florida.



Eric J. Miller

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

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

Civil Action No. 3:16-cv-3087-MAS-LHG

District Judge Michael A. Shipp

Magistrate Judge Lois H. Goodman

Special Master Dennis M. Cavanaugh,
U.S.D.J. Ret.

[PROPOSED] ORDER APPROVING DISTRIBUTION PLAN

Plaintiffs moved this Court for an order approving a distribution plan for the Net Settlement Funds in the above-captioned securities class action (“Action”). Having reviewed and considered all the materials and arguments submitted in support of the motion, including the Memorandum of Law in Support of Plaintiffs’ Motion for Approval of Distribution Plan and the Declaration of Eric J. Miller in Support of Plaintiffs’ Motion for Approval of Distribution Plan (“Miller Declaration”),

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the “Valeant Stipulation”), the Amendment to the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals Inc., dated November 22, 2021 (ECF No. 203-2) (the “Valeant Stipulation Amendment”), and the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the “Philidor Defendants Stipulation”), (collectively, “Stipulations”), as well as the Miller Declaration, and all terms used in this Order shall have the same meanings as defined in the Stipulations and the Miller Declaration.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

3. Plaintiffs' plan for distribution of the Net Settlement Funds to Authorized Claimants is **APPROVED**. Accordingly:

(a) The administrative determinations of the Court-approved Claims Administrator, A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"), to accept the Timely Eligible Claims set forth in Exhibit D to the Miller Declaration and the Late But Otherwise Eligible Claims set forth in Exhibit E to the Miller Declaration are adopted.

(b) The Claims Administrator's administrative determinations to reject the Rejected Claims, as set forth in Exhibit F to the Miller Declaration are adopted.

(c) A.B. Data is directed to conduct the Initial Distribution of the Net Settlement Funds after deducting all payments previously allowed, payments approved by this Order, and any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve from the Net Settlement Funds to address any tax liability or claims administration-related contingencies that may arise.

Specifically, as set forth in paragraph 29(a) of the Miller Declaration:

(1) A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Funds were to be distributed now. A.B. Data will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Funds based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants; (2) A.B. Data will then eliminate from the Initial Distribution any Authorized Claimant whose total *pro*

rata share of the Net Settlement Funds is less than \$100.00. These Claimants will not receive any payment from the Net Settlement Funds and will be so notified by A.B. Data; (3) After eliminating Claimants who would have received less than \$100.00, A.B. Data will recalculate the *pro rata* shares of the Net Settlement Funds for Authorized Claimants who would have received \$100.00 or more based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have received \$100.00 or more. This *pro rata* share is the Authorized Claimant's "Distribution Amount"; and (4) 95% of the remaining balance of the Net Settlement Funds will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$100.00 or more. The remaining 5% of the Net Settlement Funds will be held in the Reserve to address any tax liability or claims administration-related contingencies that may arise following the Initial Distribution. To the extent the Reserve is not depleted, the remainder will be distributed in the Second Distribution described in subparagraph (f) below.

(d) To encourage Authorized Claimants to cash their checks promptly, all distribution checks will bear the following notation: "CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE]." Class Counsel and A.B. Data are authorized to take appropriate action to locate and contact Authorized Claimants who have not cashed their checks within said time as detailed in paragraph 29(b) of the Miller Declaration.

(e) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth in paragraph 29(b) of the Miller

Declaration will irrevocably forfeit all recovery from the Settlement, and the funds allocated to these stale-dated checks will be available to be distributed to other Authorized Claimants in the Second Distribution. Similarly, Authorized Claimants who do not cash their distribution checks in the Second Distribution or subsequent distributions, should such distributions occur, within the time allotted or on the conditions set forth in paragraph 29(b) of the Miller Declaration will irrevocably forfeit any further recovery from the Net Settlement Funds.

(f) After A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks (as provided in paragraph 29(b) of the Miller Declaration), but not earlier than seven (7) months after the Initial Distribution, A.B. Data will, after consulting with Class Counsel, conduct the Second Distribution, in which any amount remaining in the Net Settlement Funds, after deducting any unpaid fees and expenses incurred, will be distributed to all Authorized Claimants (other than Claims Paid in Full) who cashed their Initial Distribution check and are entitled to receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. If any funds remain in the Net Settlement Funds after the Second Distribution, and if cost-effective, subsequent distributions will take place at six-month intervals.

(g) When Class Counsel, in consultation with A.B. Data, determine that further distribution of the funds remaining in the Net Settlement Funds is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after March 26, 2024, those Claims will be processed, and any otherwise valid Claims received after March 26, 2024, as well as any earlier-received Claims for which an upward adjustment was received after March 26, 2024, will be paid in accordance with subparagraph (h) below. If any funds

remain in the Net Settlement Funds after payment of these Claims and unpaid fees or expenses, the remaining funds will be contributed to the National Consumer Law Center (“NCLC”).

(h) No new Claims may be accepted after March 26, 2024, and no further adjustments to Claims received on or before March 26, 2024, that would result in an increased Recognized Claim amount may be made for any reason after March 26, 2024, subject to the following exception. If Claims are received or modified after March 26, 2024, that would have been eligible for payment or additional payment pursuant to the Court-approved Plan of Allocation if timely received, then, at the time that Class Counsel, in consultation with A.B. Data, determine a distribution is not cost-effective as provided in subparagraph (g) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Funds and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, these Claimants, at the discretion of Class Counsel and to the extent possible, may be paid their distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks.

4. The Court finds that the administration of the Settlements and the proposed distribution of the Net Settlement Funds comply with the terms of the Stipulations and Plan of Allocation approved by this Court and that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted, or who are otherwise involved in the administration or taxation of the Settlement Funds or the Net Settlement Funds, are hereby released and discharged from any and all claims arising out of that involvement,

and all Settlement Class Members and other Claimants, whether or not they receive payment from the Net Settlement Funds, are hereby barred from making any further claims against the Net Settlement Funds, Plaintiffs, Class Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Plaintiffs or Class Counsel in connection with the administration or taxation of the Settlement Funds or the Net Settlement Funds, or any other person released under the Settlements beyond the amounts allocated to Authorized Claimants.

5. All of A.B. Data's fees and expenses incurred in the administration of the Settlements and estimated to be incurred in connection with the Initial Distribution of the Net Settlement Funds as set forth in the invoices attached as Exhibit G to the Miller Declaration are approved, and Class Counsel are directed to pay the outstanding balance of \$62,768.45 to A.B. Data out of the Settlement Funds.

6. Unless otherwise ordered by the Court, A.B. Data may destroy the paper copies of the Claims and all supporting documentation one year after the Initial Distribution, and one year after all funds have been distributed may destroy the electronic copies of the same.

7. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and any other and further relief that this Court deems appropriate.

SO ORDERED this _____ day of _____ 2024.

Michael A. Shipp
United States District Judge