

EXHIBIT A

The State of Texas



Service of Process
P.O. Box 12079
Austin, Texas 78711-2079

Phone: 512-463-5560
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www.sos.state.tx.us

Secretary of State

September 18, 2012

Ranbaxy Inc
Registered Agent Attn: Corporation Service
Company
80 State St
Albany, NY 12207

2013-218286-1
Include reference number in
all correspondence

RE: The State of Texas VS Ranbaxy Pharmaceuticals Inc Ranbaxy Laboratories Inc Ranbaxy
USA Inc Ranbaxy Inc
345th Judicial District Court Of Travis County, Texas
Cause No: DIGV12001256

Dear Sir/Madam,

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of process received by the Secretary of State of the State of Texas on September 14, 2012.

CERTIFIED MAIL #71901046470100076777

Refer correspondence to:

Raymond C Winter
Civil Medicaid Fraud Section
Assistant Attorney General
P O Box 12548
Austin, TX 78711-2548

Sincerely,

A handwritten signature in cursive script that reads "Helen Lupercio".

Helen Lupercio
Team Leader, Service of Process
Statutory Documents Section

hl/vo
Enclosure

Filed
 12 September 5 P4:48
 Amalia Rodriguez-Mendo
 District Clerk
 Travis District
 D-1-GV-12-001256

CAUSE NO. D-1-GV-12-001256

THE STATE OF TEXAS

Plaintiff,

v.

RANBAXY PHARMACEUTICALS, INC.,
 RANBAXY LABORATORIES, INC.,
 RANBAXY USA, INC., and
 RANBAXY INC.

Defendants.

§ IN THE DISTRICT COURT OF

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§ TRAVIS COUNTY, TEXAS

§ 419th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE:

The State of Texas ("State" or "Texas"), by and through the Attorney General of Texas, Greg Abbott, brings this cause of action under the Texas Medicaid Fraud Prevention Act, ("the Act" or "TMFPA"), TEX. HUM. RES. CODE chapter 36.

**I.
 DISCOVERY CONTROL PLAN**

1.1 Plaintiff designates this case as a Level 3 case requiring a discovery control plan tailored to the circumstances of this suit.

**II.
 JURISDICTION & VENUE**

2.1 This Court has subject-matter jurisdiction over this case pursuant to section 36.052(d) of the TMFPA which provides statutory remedies to redress the conduct of the Defendants. The TMFPA provides authority for this action to be brought by the Attorney General. TEX. HUM. RES. CODE § 36.052.

2.2 This Court has jurisdiction over the Defendants because the Defendants do, or did, business in the State of Texas and committed the unlawful acts alleged in whole or in part in the State.

agent at the following registered address: ATTN: Ranbaxy USA, Inc., Corporation Service Company, 1201 Hays St., Tallahassee, Florida 32301.

3.5 Defendant RANBAXY INC. is a corporation organized under the laws of Delaware with its principal offices in New York, New York. RPI, RLI, and Ranbaxy USA are wholly-owned subsidiaries of Ranbaxy Inc. Ranbaxy Inc. may be served with process by serving its registered agent at the following registered address: ATTN: Ranbaxy Inc., Corporation Service Company, 80 State St., Albany, New York 12207.

3.6 Plaintiff refers to RPI, RLI, Ranbaxy USA, and Ranbaxy Inc. collectively as "Defendants."

IV.
PRELIMINARY STATEMENT AND NATURE OF THIS ACTION

4.1 This is a law enforcement action brought under the TMFPA. Plaintiff seeks to recover: (1) the amount of any payments or the value of any monetary or in-kind benefits provided under the Medicaid program, directly or indirectly, as a result of Defendants' unlawful acts; (2) pre-judgment interest on the amount of the payments or the value of such payments; (3) two times the amount of the payments or the value of such payments; (4) civil penalties in an amount not less than \$1,000.00 or more than \$10,000.00 for each unlawful act committed by the Defendants before May 4, 2007; (5) civil penalties in an amount not less than \$5,000 or more than \$10,000 for each unlawful act committed by the Defendants on or after May 4, 2007 and before September 1, 2011; (6) civil penalties in an amount not less than \$5,500 or more than \$11,000 for each unlawful act committed by the Defendants on or after September 1, 2011; (7) the costs, attorneys' fees, and expenses incurred by the State in obtaining relief under the TMFPA; and (8) any and all other remedies the TMFPA allows. Additionally, the State seeks injunctive relief pursuant to section 36.051 of the TMFPA.

customers, through financial inducements, including, but not limited to, false price markups, discounts, rebates, chargebacks, and other financial incentives. These inducements were designed to, and did, create a difference between the inflated prices the Defendants reported to the Texas Medicaid Program and the prices generally and currently paid by their customers. This difference is also known as the "spread." Defendants routinely marketed their drugs by using the spread to identify and highlight the reimbursement a provider would receive by dispensing Defendants' drugs instead of a competitor's. Defendants benefitted from this practice by gaining new customers, improving market share, and making more money. Consequently, Defendants wrongfully exploited and defrauded the Texas Medicaid Program by causing it to overestimate providers' acquisition costs and to pay the reimbursement claims of Defendants' customers at inflated amounts that far exceeded any reasonable estimate of the acquisition costs of the drugs in question.

V.

**BACKGROUND: HOW PHARMACEUTICAL CLAIMS
ARE PAID UNDER THE TEXAS MEDICAID PROGRAM**

5.1 The Texas Medicaid Program provides a pharmaceutical benefit for Medicaid clients. To receive this benefit, clients go to outpatient pharmacies which apply to be eligible Medicaid providers. Texas Medicaid then reimburses these eligible pharmacy providers for the approved pharmaceuticals they provide to Medicaid recipients. In order for a pharmaceutical product to be approved, the drug manufacturer must comply with both federal and Texas rules and regulations. As a matter of law, by becoming participants in the Medicaid program, the Defendants are charged with the duty to know the statutes, rules, and regulations of the United States and of the State of Texas pertinent to the Medicaid program. 1 TEX. ADMIN. CODE § 371.1615; *see also Heckler v. Cmty. Health Servs. of Crawford County, Inc.*, 467 U.S. 51, 64-5 (1984); *North Mem'l Med. Ctr. v. Gomez*,

voluntarily and affirmatively sought and attained participation in the Medicaid program in order for their products to be eligible for reimbursement. To have its particular pharmaceutical products listed on the TDCI, a drug company or manufacturer must first sign a contract with the federal Medicaid administrator, the Centers for Medicare and Medicaid Services ("CMS"). The drug manufacturer must then file with Texas HHSC and have approved a questionnaire (sometimes called an application) for each of its products for which it seeks inclusion on the TDCI. 1 TEX. ADMIN. CODE § 354.1921. HHSC calculates EAC by using the prices reported by the manufacturer in the questionnaire. 1 TEX. ADMIN. CODE § 355.8541(2)(D)(v). The questionnaire requires manufacturers to supply the following prices for each drug they seek to have included on the TDCI: (1) the suggested average wholesale price to pharmacies; (2) Average Manufacturer Price; (3) price to wholesalers and/or distributors; (4) the direct price to pharmacies; (5) central purchase price to chain (such as warehouse price); (6) institutional or other contract price (Nursing Home, Home Health Care); and (7) other price. The application further requires manufacturers to certify that the information provided in the application is correct and that any price changes will be provided to VDP within fifteen (15) days of such price changes occurring. HHSC expressly requires that supplemental price information be provided to VDP. 1 TEX. ADMIN. CODE §§ 354.1927(a)(2); 354.3092(b)(4). A definition of the word "price" was added to the questionnaire in 2002 to emphasize that the VDP was asking for market prices, in conformity with state and federal laws and regulations governing the Medicaid program. The word "price" is defined on the questionnaire as a "net price after all chargebacks, discounts and rebates to wholesalers/distributors or pharmacies are applied, other than commercially reasonable prompt pay discounts." The questionnaire allows manufacturers to submit a range of prices, by category, for any drug.

- B. Concealing or otherwise failing to disclose decreases in the prices of their drugs;
- C. Concealing or otherwise failing to disclose events or transactions that decreased the prices of their drugs to purchasers;
- D. Failing to disclose the prices generally and currently paid in the marketplace for their drugs;
- E. Falsely reporting that the prices of their drugs were increasing when prices generally and currently paid in the marketplace were decreasing;
- F. Falsely reporting that their drugs were not sold to a specific sector or segment of the market (also known as a "class of trade"); and
- G. Failing to disclose that their drugs were sold to a specific class of trade.

6.4 By their conduct, Defendants have repeatedly and continuously violated the TMFPA. Before September 1, 2005, Defendants committed unlawful acts by:

- A. Knowingly or intentionally making or causing to be made a false statement or misrepresentation of material fact on an application for a contract, benefit, or payment under the Medicaid Program; or that is intended to be used to determine a person's eligibility for a benefit or payment under the Medicaid program. TEX. HUM. RES. CODE § 36.002(1)(A) & (B); or
- B. Knowingly or intentionally concealing or failing to disclose an event that permits a person to receive a benefit or payment that is not authorized, or that is greater than the benefit or payment that is authorized. TEX. HUM. RES. CODE § 36.002(2); or
- C. Knowingly or intentionally making, or causing to be made, inducing, or seeking to induce the making of a false statement or misrepresentation of a material fact concerning information required to be provided by a federal or state law, rule, regulation or provider agreement pertaining to the Medicaid Program. TEX. HUM. RES. CODE § 36.002(4).

6.5 After August 31, 2005, Defendants committed unlawful acts by:

- A. Knowingly making or causing to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized. TEX. HUM. RES. CODE ANN. § 36.002(1)(A) & (B); or

law defenses for any violation of its provisions. Further, Texas jurisprudence provides that the defenses of estoppel, laches, and limitations are not available against the State of Texas as a Sovereign. *State v. Durham*, 860 S.W.2d 63, 67 (Tex. 1993).

**VIII.
STATUTORY INJUNCTION UNDER § 36.051 OF THE ACT**

8.1 There is good reason for the Attorney General to believe the Defendants are committing, have committed, or are about to commit unlawful acts as defined by the TMFPA.

8.2 Defendants continue to violate Texas law by failing to provide truthful or complete pricing information on the questionnaire and by failing to disclose price changes to the Medicaid Program. These illegal acts may be enjoined under § 36.051 of the Act, and under TEX. GOVT. CODE § 2001.202.

**IX.
JURY DEMAND**

9.1 Plaintiff respectfully requests a trial by jury pursuant to Texas Rule of Civil Procedure 216.

**X.
REQUESTS FOR DISCLOSURE**

10.1 Pursuant to Texas Rule of Civil Procedure 194, Plaintiff requests Defendants disclose, within 50 days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2(a) - (l).

**XI.
REQUEST FOR RELIEF**

11.1 Plaintiff asks that judgment be entered upon trial of this case in favor of the State against Defendants to the maximum extent allowed by law.

11.2 The State of Texas asks that it recover from Defendants:

DAMON T. ONG
State Bar No. 24065846
(512) 936-6615 direct dial

MATTHEW MILLER
State Bar No. 24051959
(512) 936-1420 direct dial

BRADEN CIVINS
State Bar No. 24080836
(512) 463-7975 direct dial

Assistant Attorneys General
P.O. Box 12548
Austin, Texas 78711-2548
(512) 499-0712 fax

Attorneys for the State of Texas

Plaintiff's Original Petition

Exhibit A - Identified Drugs

NDC	Description
63304040701	PROCTOSOL-HC
63304040812	PROCTOSOL-HC
63304040824	PROCTOSOL-HC
63304050001	BUSPIRONE HCL
63304050005	BUSPIRONE HCL
63304050101	BUSPIRONE HCL
63304050105	BUSPIRONE HCL
63304050205	BUSPIRONE HCL
63304050228	BUSPIRONE HCL
63304050260	BUSPIRONE HCL
63304050901	AMOX TR-POTASSIUM CL
63304050920	AMOX TR-POTASSIUM CL
63304051401	AMOXICILLIN
63304051501	AMOXICILLIN
63304051504	AMOXICILLIN
63304051801	NITROFURANTOIN MONO-
63304052001	CEFPODOXIME PROXETIL
63304052020	CEFPODOXIME PROXETIL
63304052101	CEFPODOXIME PROXETIL
63304052120	CEFPODOXIME PROXETIL
63304052201	ENALAPRIL MALEATE 2.
63304052210	ENALAPRIL MALEATE 2.
63304052301	ENALAPRIL MALEATE 5
63304052310	ENALAPRIL MALEATE 5
63304052401	ENALAPRIL MALEATE 10
63304052410	ENALAPRIL MALEATE 10
63304052501	ENALAPRIL MALEATE 20
63304052510	ENALAPRIL MALEATE 20
63304053101	LISINOPRIL
63304053201	LISINOPRIL
63304053210	LISINOPRIL
63304053301	LISINOPRIL
63304053310	LISINOPRIL
63304053401	LISINOPRIL
63304053410	LISINOPRIL
63304053501	LISINOPRIL
63304053510	LISINOPRIL
63304053601	LISINOPRIL-HYDROCHLO
63304053605	LISINOPRIL-HYDROCHLO
63304053701	LISINOPRIL-HYDROCHLO
63304053705	LISINOPRIL-HYDROCHLO
63304053801	LISINOPRIL-HYDROCHLO
63304053805	LISINOPRIL-HYDROCHLO
63304056101	ACETAMINOPHEN-CODEIN
63304056105	ACETAMINOPHEN-CODEIN
63304056201	ACETAMINOPHEN-CODEIN

Plaintiff's Original Petition

Exhibit A - Identified Drugs

63304069605	MINOCYCLINE HCL
63304069650	MINOCYCLINE HCL
63304069701	MINOCYCLINE HCL
63304069801	MINOCYCLINE HCL
63304069950	MINOCYCLINE HCL
63304070601	MORPHINE SULFATE
63304070701	MORPHINE SULFATE
63304070801	MORPHINE SULFATE
63304070901	CIPROFLOXACIN HCL
63304071001	CIPROFLOXACIN HCL
63304071101	CIPROFLOXACIN HCL
63304071150	CIPROFLOXACIN HCL
63304071320	AMOX TR-POTASSIUM CL
63304072501	CLARITHROMYCIN
63304072560	CLARITHROMYCIN
63304072601	CLARITHROMYCIN
63304072660	CLARITHROMYCIN
63304074501	RANITIDINE 150 MG TA
63304074505	RANITIDINE 150 MG TA
63304074560	RANITIDINE 150 MG TA
63304074601	RANITIDINE 300 MG TA
63304074604	RANITIDINE 300 MG TA
63304074630	RANITIDINE 300 MG TA
63304075120	CEFUROXIME
63304075160	CEFUROXIME
63304075220	CEFUROXIME
63304075260	CEFUROXIME
63304075320	AMOX TR-POTASSIUM CL
63304075420	AMOX TR-POTASSIUM CL
63304076020	AMOXICILLIN
63304076101	AMOXICILLIN
63304076120	AMOXICILLIN
63304076220	AMOXICILLIN
63304076301	AMOXICILLIN
63304076305	AMOXICILLIN
63304076320	AMOXICILLIN
63304076801	AMOX TR-POTASSIUM CL
63304076802	AMOX TR-POTASSIUM CL
63304076807	AMOX TR-POTASSIUM CL
63304077001	RANITIDINE 150 MG TA
63304077005	RANITIDINE 150 MG TA
63304077060	RANITIDINE 150 MG TA
63304077101	RANITIDINE 300 MG TA
63304077104	RANITIDINE 300 MG TA
63304077130	RANITIDINE 300 MG TA
63304077201	LORAZEPAM
63304077205	LORAZEPAM

Plaintiff's Original Petition

Exhibit A - Identified Drugs

63304086030	METFORMIN HCL ER
63304090430	VALACYCLOVIR
63304090530	VALACYCLOVIR HCl TABLETS 1 Gm x 30
63304090801	AMPHETAMINE SALT COM
63304090901	AMPHETAMINE SALT COM
63304091001	AMPHETAMINE SALT COM
63304091101	AMPHETAMINE SALT COM
63304095401	CEFACTOR
63304095402	CEFACTOR
63304095503	CEFACTOR
63304095504	CEFACTOR
63304095601	CEFACTOR
63304095602	CEFACTOR
63304095703	CEFACTOR
63304095704	CEFACTOR
63304095801	CEPHALEXIN
63304095802	CEPHALEXIN
63304095901	CEPHALEXIN
63304095902	CEPHALEXIN
63304096001	CEFPROZIL
63304096003	CEFPROZIL
63304096004	CEFPROZIL
63304096101	CEFPROZIL
63304096103	CEFPROZIL
63304096104	CEFPROZIL
63304096304	CEFUROXIME AXETIL
63304096403	CEFUROXIME AXETIL
63304096404	CEFUROXIME AXETIL
63304096503	CEFPODOXIME PROXETIL
63304096504	CEFPODOXIME PROXETIL
63304096603	CEFPODOXIME PROXETIL
63304096604	CEFPODOXIME PROXETIL
63304096901	AMOXICILLIN
63304096903	AMOXICILLIN
63304096904	AMOXICILLIN
63304097001	AMOXICILLIN
63304097003	AMOXICILLIN
63304097004	AMOXICILLIN
63304097304	CEFADROXIL
63304097401	CEFADROXIL
63304097404	CEFADROXIL
63304097505	FLUCONAZOLE
63304097605	FLUCONAZOLE
63304097701	AMOX TR-POTASSIUM CL
63304097703	AMOX TR-POTASSIUM CL
63304097704	AMOX TR-POTASSIUM CL
63304097901	AMOX TR-POTASSIUM CL

Secretary of State
Office of Process
P.O. Box 12079
Austin, Texas 78711-2079

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P.O. Box 12079
Austin, Texas 78711-2079

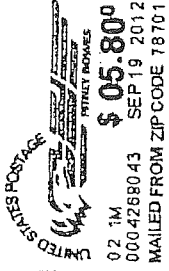
Return Receipt (Electronic)

2013218286-1

Ranbaxy Inc
Registered Agent Attn: Corporation Service Company
80 State St
Albany, NY 12207

7190 1046 4701 0007 6777

CERTIFIED MAIL



FIRST CLASS

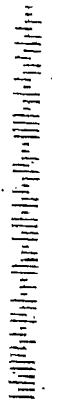


EXHIBIT B

From: Damon Ong <damon.ong@texasattorneygeneral.gov>
Sent: Thursday, September 06, 2012 9:59 AM
To: Tim Herman
Cc: Diana Reed; Raymond Winter
Subject: State of Texas v. Ranbaxy petition
Attachments: 2012-0905 Original Petition.pdf; Exhibit A.pdf

Tim,

Yesterday, the State of Texas filed its petition against Ranbaxy.
Attached are the Original Petition and Exhibit A.

Please let me know if you have any questions,

Damon T. Ong
Assistant Attorney General
Civil Medicaid Fraud Division
Office of the Attorney General of Texas
P.O. Box 12548
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T: 512.936.6615
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