

United States Senate
Washington, D.C. 20510

September 21, 2020

The Honorable Judge Robert D. Drain
300 Quarropas Street
White Plains, NY 10601

Dear Judge Drain:

We write to express our opposition to the executive bonuses proposed by Purdue Pharma during their ongoing Chapter 11 bankruptcy litigation. Specifically, we are extremely concerned about a proposal to compensate President and Chief Executive Officer Craig Landau with an “incentive payment” of up to \$3.5 million, despite new evidence indicating that Mr. Landau may have presided over significant criminal activity during his time at Purdue.

Mr. Landau has served as President and Chief Executive Officer at Purdue since 2017. The company has repeatedly stated that Mr. Landau was not involved in the intentionally deceptive marketing campaign that contributed to the opioid crisis, and in offering this incentive and retention plan, Purdue claims that “continued appropriate and competitive compensation, are mission critical to maintaining and driving productivity, morale and achievement to maximize value for the benefit of all stakeholders.”¹ In total, the plan as outlined seeks to provide Purdue executives with bonuses of up to \$9.87 million. Mr. Landau could receive an award of up to \$3.52 million.

While we agree that appropriate compensation is a necessary feature of sustainable business practices, no business should seek to reward any employee that has engaged in criminal practices. Executives in leadership roles must be held accountable for their actions. This proposed incentive structure represents an affront to the thousands of families that have been harmed by the opioid crisis, and an entirely inappropriate exercise given the impact of Purdue’s continued recklessness. Since 2017, while Mr. Landau was reportedly “leading” the company, Purdue has engaged in a number of potentially criminal activities, with the aim of further promoting the company’s opioid products.

From the summer of 2016 to the spring of 2019, Purdue paid an electronic health records company to create an alert that would prompt doctors to take certain clinical actions that the company believed would increase prescriptions for Purdue’s extended release opioid products (EROs), including OxyContin, Butrans, and Hysingla.² This alert was pushed on medical providers approximately 230 million times over the less than three year period.³ From the fall of

¹ <https://restructuring.primeclerk.com/purduepharma/Home-DownloadPDF?id1=MTA2NjY5OQ==&id2=0>

² <https://www.reuters.com/article/us-purdue-pharma-investigation-opioids-e-idUSKBN1ZR2RY>

³ <https://www.bloomberg.com/news/articles/2020-01-29/health-records-company-pushed-opioids-to-doctors-in-secret-deal>

2015 through 2018, the company provided kickbacks to specialty pharmacies to fill OxyContin prescriptions that were rejected by other traditional pharmacies.⁴ Under this arrangement, Purdue referred patients and prescribers to the specialty pharmacies, the specialty pharmacies filled the prescriptions, and Purdue paid the pharmacies approximately \$40 per prescription to call the patient and send them a pre-printed marketing pamphlet. Purdue paid the specialty pharmacies \$137,000 for this arrangement, and those same pharmacies filled over \$2,000,000 in Medicare prescriptions for Purdue opioids over the same time period. Finally, from 2010 through 2018, Purdue paid doctors to serve as corporate advisors and speakers in an effort to further promote opioid prescriptions.⁴ Marketing and sales personnel from the company were advised to select doctors to retain as paid corporate advisors and speakers specifically to induce them to prescribe opioids and reward them for prescribing the company's drugs. Over a five year period, the company paid \$3 million for advising and \$10 million for speaking fees, in violation of the federal anti-kickback statute.

To provide Mr. Landau with this bonus is to endorse the very behavior for which Mr. Landau has been sued by multiple states. These states allege that Mr. Landau is "one of the chief architects and beneficiaries of Purdue's illegal marketing campaign." The investigation of Mr. Landau, and the associated litigation, have only been suspended in an effort to adjudicate this bankruptcy. In total, over 122,000 individuals have filed personal injury claims associated with opioid products made by Purdue.⁵ Many claims are from people whose lives or those of their family members have been devastated by opioids. Instead of preserving cash to maximize the amount available to these struggling families, Purdue wants to spend millions to ensure their executives stay motivated enough to simply continue doing their jobs. Bonus payments as outlined in Purdue's proposal should not be made while these families continue to wait for justice.

Sincerely,



Tammy Baldwin
U.S. Senator



Margaret Wood Hassan
U.S. Senator



Joe Manchin III
U.S. Senator



Tina Smith
U.S. Senator

⁴ <https://restructuring.primeclerk.com/purduepharma/Home-ClaimInfo>, Claim #137848

⁵ <https://restructuring.primeclerk.com/purduepharma/Home-DownloadPDF?id1=MTA2ODM1OA%3D%3D&id2=0>