

**AFFIDAVIT OF SPECIAL AGENT DAVID CIRILLI IN SUPPORT OF
AN APPLICATION FOR CRIMINAL COMPLAINT**

I, David Cirilli, state:

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) assigned to the Boston, Massachusetts Field Office. Since joining the FBI in 2010, I have been assigned to squads that investigate economic crimes, including insider trading and other forms of securities fraud.

2. I make this affidavit in support of a criminal complaint charging SCHULTZ “JASON” CHAN (“CHAN”) with securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff (Securities and Exchange Act of 1934, Sections 10(b) and 32) and 17 C.F.R. §240.10b-5 (Exchange Act Rule 10b-5). Specifically, as set forth below, I have probable cause to believe that, beginning no later than August 2015 and continuing through at least September 2015, CHAN engaged in an insider trading scheme pursuant to which CHAN obtained material nonpublic information from his employer, Akebia Therapeutics, Inc. (“Akebia”), regarding clinical trial results, and purchased shares of Akebia based on that material nonpublic information prior to the announcement of the trial results.

3. The facts in this affidavit come from my personal involvement in the investigation and review of records, and information obtained from others, including other agents working on the criminal investigation as well as the Securities and Exchange Commission (“SEC”) and the Financial Industry Regulatory Authority (“FINRA”). In submitting this affidavit, I have not included each and every fact known to me about this investigation. Rather, I have included only those facts that I believe are sufficient to establish probable cause.

Certain Relevant Persons and Entities

4. CHAN is a resident of Newton, Massachusetts. On or about August 17, 2015, CHAN began working as the Director of Biostatistics at Akebia.

5. Akebia, which is based in Cambridge, Massachusetts, is a biopharmaceutical company that develops products for patients with kidney disease. Akebia's shares are traded on the NASDAQ Stock Market under the ticker symbol AKBA.

6. Before a pharmaceutical company can release a new drug, it must conduct clinical trials to determine whether the drug is safe and effective in providing treatment to patients. These trials generally are conducted in multiple phases. According to publicly available data from the Food and Drug Administration ("FDA"), Phase 1 trials test the drug on a small group of people (20-100) to determine, among other things, its safety and a safe dosage range. In Phase 2, the drug is given to a larger group of people (up to several hundred) to determine if it is effective and further evaluate its safety. In Phase 3, the drug is given to large groups of people to confirm, among other things, its effectiveness, its safety and to monitor any side effects.

7. On September 8, 2015, after the close of trading, Akebia publicly announced its Phase 2 results (the "Phase 2 Results") for a drug called vadadustat. The study had been designed to assess the response, safety and tolerability of the drug in dialysis patients with anemia secondary to chronic kidney disease. The September 8 announcement provided, in sum and substance, that the drug had proven effective and safe. On September 9, the day after the announcement, Akebia's share price increased 45%, from \$7.81 (closing price on the September 8) to \$11.36 (closing price on September 9).

8. CHAN had access to, and was aware of, the Phase 2 Results before the public announcement on September 8, 2015.

9. In an interview with FBI agents on or about June 7, 2015, CHAN admitted that he traded in Akebia shares while aware of the preliminary Phase 2 Results. CHAN further admitted that, at the time he traded, he was aware of a “blackout period” issued by Akebia, meaning that no Akebia employee, including CHAN, was permitted to trade in Akebia securities. Finally, CHAN admitted that he knew that the preliminary Phase 2 Results constituted material information.

10. Trading records show that CHAN did in fact trade during a blackout period and prior to the September 8, 2015 public announcement of the Phase 2 Results.

The Insider Trading Scheme

11. Beginning no later than August 2015 and continuing through at least September 2015, in the District of Massachusetts and elsewhere, SCHULTZ “JASON” CHAN, knowingly and willfully, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of a national securities exchange, directly and indirectly, would and did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities, to wit, shares of Akebia Therapeutics, Inc., in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon the purchase and seller, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5.

Manner and Means of the Scheme

12. Among the manner and means by which CHAN carried out his scheme was the following:

a. In or about August 2015, CHAN, through his position as Director of Biostatistics at Akebia, obtained material non-public information concerning the Akebia Phase 2 Results (the “Inside Information”).

b. On various dates in August 2015, in violation of the duties that CHAN owed to Akebia and while in possession of the Inside Information, CHAN purchased shares of Akebia before the public announcement of the Phase 2 Results. CHAN knowingly purchased those shares during a “blackout period” issued by Akebia.

c. For example, on or about August 19, 2015, CHAN placed an order to purchase 5,900 shares of Akebia through his Vanguard IRA Account, which purchase was executed on or about August 20, 2015. Also on or about August 20, 2015, CHAN transferred approximately \$50,000 from his account at Bank of America to his Vanguard Brokerage Account and the next day, August 21, 2015, CHAN purchased 7,900 shares of Akebia in that Vanguard Brokerage Account.

d. CHAN held the Akebia shares through the September 8, 2015 announcement regarding Akebia’s Phase 2 Results, reaping potential profits of approximately \$68,699.

CONCLUSION

13. Based on my knowledge, training and experience and the facts set forth in this affidavit, I have probable cause to believe that, beginning by at least August 2015 and continuing through at least September 2015, SCHULTZ CHAN knowingly and willfully, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of a national securities exchange, directly and indirectly, would and did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities, to wit, shares of Akebia Therapeutics, Inc., in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of circumstances under which they were made, not misleading; and

(c) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon the purchase and seller, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2.

Sworn under the pains and penalties of perjury.



David Cirilli
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
On June 13, 2016



DONALD L. CABELL
UNITED STATES MAGISTRATE JUDGE

