

June 3, 2008

AmerisourceBergen Corporation
1300 Morris Drive, Suite 100
Chesterbrook, PA 19087

Dear Sir or Madam:

Sometime in the next few weeks, the Project On Government Oversight (POGO) will update its Federal Contractor Misconduct Database (<http://www.contractormisconduct.org/>), a compilation of information from public resources regarding government contractors, including AmerisourceBergen Corporation. On October 18, 2005, December 2, 2005 and October 31, 2006, we sent AmerisourceBergen information regarding findings in POGO's database. As of today, we have not received a response from you. I have enclosed the findings relevant to your company, and I am seeking verification of this data.

Any response would be greatly appreciated, as the accuracy of this information is in the best interest of all parties. Out of fairness to AmerisourceBergen, please be assured that any response received by POGO will be posted on the website along with the data.

The biggest change we will be making to the database is the inclusion of more federal contractors (the top 100). We are also adding new instances that we have found in recent months and updating instances already in the database with new information. Please note that the database also includes pending instances, but these are kept separate from resolved instances and are not included in the totals.

If you have any questions, I can be reached at (202) 347-1122. Thank you for your time and consideration.

Sincerely,

Neil Gordon
Investigator

Enclosure

Instances

1. Fagan v. AmerisourceBergen Corp. (Counterfeit Drugs)

Date: 02/24/2006 (Date of Settlement)

Misconduct Type: Health

Enforcement Agency: Non-Governmental

Contracting Party: None

Court Type: Civil

Amount: Undisclosed

Disposition: Settlement

Synopsis: Fagan, at age 16, almost died after he received injections of counterfeit drugs prescribed after he underwent an emergency liver transplant. Fagan sued AmerisourceBergen, the distributor of the drug. Both parties settled the suit in February 2006 for an undisclosed amount.

2. Helbig v. Interstate Pharmacy Corporation (Reissuing of Medications)

Date: 01/27/2005 (Date of Settlement)

Misconduct Type: Health

Enforcement Agency: Non-Governmental

Contracting Party: None

Court Type: Civil

Amount: \$3,200,000

Disposition: Settlement

Synopsis: “The allegations in the class action suit alleged that prior to February 2000, PharMerica's IPC pharmacy [a subsidiary of AmerisourceBergen] in Hawaii accepted returned medications and reissued them for other patients in violation of Hawaii law. There were no allegations of physical harm to any patient.” Under the settlement, PharMerica paid \$2 million to a fund for class action members and \$1.2 million to the University of Hawaii for programs benefiting senior citizens.

3. Allegations of Illegal Kickbacks

Date: 03/29/2005 (Date of Settlement)

Misconduct Type: Ethics

Enforcement Agency: Health and Human Servs.

Contracting Party: Non-Governmental

Court Type: Administrative

Amount: \$5,975,000

Disposition: Settlement

Synopsis: PharMerica, a subsidiary of AmerisourceBergen, “agreed to pay \$5,975,000 and to enter into a corporate integrity agreement to resolve its liability under the CMPL provisions applicable to kickbacks. The [Office of Inspector General for the Department of Health and Human Services] alleged that PharMerica entered into a purchase and sale agreement with the owners of a nursing facility chain to acquire the chain’s institutional pharmacy for \$7.2 million. Prior to the purchase of the pharmacy, the pharmacy had been operational for only eight weeks and was serving a small percentage of the nursing facilities’ approximately 2800 residents. PharMerica allegedly conditioned its purchase of the pharmacy on the creation of a pharmacy

services agreement (PSA) that contractually required the nursing facilities to order its drugs from the pharmacy. PharMerica allegedly negotiated the PSA itself in the month before the execution of the PSA. The OIG alleged that the PSA was backdated to July 9, 1996 to make it appear that the pharmacy had a longer operating history than it did.”

4. Petters Company Inc. v. Stayhealthy Inc., et. al. (Breach of Contract)

Date: 08/01/2005 (Date of Settlement)

Misconduct Type: Non-governmental Contract Fraud

Enforcement Agency: Non-Governmental

Contracting Party: Non-Governmental

Court Type: Civil

Amount: Undisclosed

Disposition: Settlement

Synopsis: The lawsuit began when Petters Company Inc. filed suit against AmerisourceBergen claiming that the company’s failure to purchase certain health care machines from Stayhealthy resulted in Stayhealthy being forced to default on loans made by Petters. Stayhealthy filed a crossclaim against AmerisourceBergen asserting claims for breach of contract, fraud, promissory estoppel, unjust enrichment, defamation, conversion, interference with economic advantage and federal trade libel. The matter was ultimately settled out of court for an undisclosed amount.

5. Failure to Conform to Current Good Manufacturing Practices

Date: 11/06/1996 (Date of Inspection Report)

Misconduct Type: Health

Enforcement Agency: Health and Human Servs.

Contracting Party: None

Court Type: Administrative

Amount: \$0

Disposition: Investigative Finding

Synopsis: In 1996, an inspection at a drug repackaging operation at Amerisource Health Services Corporation revealed “serious deviations from the Current Good Manufacturing Practices Regulations.” These violations include “failure to establish adequate procedures for control of labels and labeling,” “failure to adequately perform or document training of personnel,” and “failure to adequately clean, document, and verify the adequacy of cleaning of packaging rooms and equipment between production runs.”

6. Failure to Request FDA Approval

Date: 10/11/2002 (Date of Violation Notification)

Misconduct Type: Health

Enforcement Agency: Health and Human Servs.

Contracting Party: None

Court Type: Administrative

Amount: \$0

Disposition: Administrative Agreement

Synopsis: On October 11, 2002 the FDA submitted a letter to Amerisource Health Services Corporation, a subsidiary of AmerisourceBergen, in reference to the firm’s marketing of Humibid LA Tablets. The FDA had recently approved a similar drug; however, Amerisource had

not received approval for Humibid. Marketing this new drug without FDA approval violated the Federal Food, Drug, and Cosmetic Act and required Amerisource to bring its marketing efforts into compliance with the act.

7. Controlled Substances (Temporary Suspension of Distribution License)

Date: 04/24/2007 (Date of Suspension Announcement)

Misconduct Type: Health

Enforcement Agency: Justice

Contracting Party: None

Court Type: Administrative

Amount: \$0

Disposition: Administrative Agreement

Synopsis: In April 2007, the U.S. Drug Enforcement Agency temporarily suspended AmerisourceBergen's Orlando, Fla., distribution center's license to distribute DEA-controlled substances and listed chemicals. The DEA claimed AmerisourceBergen did not maintain effective controls against diversion of controlled substances, specifically hydrocodone, to four Internet pharmacies between January 2006 and January 2007. In June 2007, AmerisourceBergen signed an agreement with the DEA that will lead to the distribution center's reinstatement in August.

8. Bridge Medical Stockholder Lawsuit

Date: 09/04/2007 (Date of Ruling)

Misconduct Type: Securities

Enforcement Agency: Non-Governmental

Contracting Party: None

Court Type: Civil

Amount: \$26,900,000

Disposition: Judgment Against Defendant

Synopsis: The Delaware Court of Chancery ruled that AmerisourceBergen must pay \$21 million, plus prejudgment interest of \$5.9 million, to the former stockholders of Bridge Medical Inc., a former subsidiary AmerisourceBergen acquired in 2003 and sold in 2005. The stockholders alleged they were entitled to payments that were conditioned upon Bridge achieving certain earnings levels in 2003 and 2004, and that AmerisourceBergen breached its obligations to assist the Bridge sales force and promote its bedside point-of-care patient safety product.