

October 31, 2006

AmerisourceBergen Corporation  
Attn: General Counsel's Office  
1300 Morris Drive Suite 100  
Chesterbrook, PA 19087

Dear General Counsel of AmerisourceBergen:

The Project On Government Oversight (POGO) is overhauling and renewing its Federal Contractor Misconduct Database ([www.pogo.org/db/index.cfm](http://www.pogo.org/db/index.cfm)), a compilation of information from public resources regarding government contractors, including AmerisourceBergen. On October 18, 2005 and December 2, 2005, we sent you information regarding findings relevant to AmerisourceBergen, which we have enclosed for your reference. As of today, we have not received a response from your office.

A written response is certainly in the best interest of everyone involved. It is the best way for your company to go on record regarding this process and the instances identified; your letter will be posted in its entirety on the database. Several companies have already responded and have expressed appreciation for the opportunity to express their views. POGO would prefer to receive a response by November 17, 2006 to ensure it is included with the launch of our new database.

If you have any questions, please contact Kevin Phelps at (202) 347-1122. Thank you for your time and consideration.

Sincerely,

Scott Amey  
General Counsel

Enclosure

## Instances of Misconduct

1.

Helbig, et. al. vs. Interstate Pharmacy Corporation (Reissuing of Medications)

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

Misconduct Type: Health

Contracting Party: Non-Governmental

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 terms of the settlement, PharMerica will pay \$2 million to a fund for class action members and \$1.2 million to the University of Hawaii for programs benefiting senior citizens. Any unclaimed monies in the fund established for the class action members also will be distributed to the University of Hawaii for this purpose."

Document(s):

AmerisourceBergen Press Release

2.

Liabilities for Kickbacks

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

Misconduct Type: Ethics

Contracting Party: Government Civilian

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."

Document(s):  
HHS Inspector General Press Release  
HHS Inspector General Report  
Pharmerica Corporate Integrity Agreement

3.  
Petters Company Inc. v. Stayhealthy Inc., et. al. (Breach of Contract)  
Date: 08/01/2005 (Date of Settlement)  
Misconduct Type: Non-governmental Contract Fraud  
Contracting Party: Non-Governmental  
Court Type: Civil  
Amount: \$0  
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. Also, "in March 2004, Stayhealthy filed a crossclaim against asserting claims for breach of contract, fraud, promissory estoppel, unjust enrichment, defamation, conversion, interference with economic advantage and federal trade libel." According to the District Court of Minnesota's PACER system, the matter was settled out of court, however, no settlement amount can be found.

Document(s):  
Stayhealthy Press Release

4.  
Failure to Conform to Current Good Manufacturing Practices  
Date: 11/06/1996 (Date of Inspection Report)  
Misconduct Type: Other  
Contracting Party: N/A  
Court Type: Administrative  
Amount: \$0  
Disposition: Administrative Agreement

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".

Document(s):  
FDA Warning Letter

5.

Failure to Request FDA Approval

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

Misconduct Type: Health

Contracting Party: N/A

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 requires Amerisource to bring its marketing efforts into compliance with the act.

Document(s):

FDA Warning Letter

Pending Cases:

1.

Fagan v. AmerisourceBergen Corp (Conterfeit Drugs)

Date: 08/11/2004 (Date of Filing)

Misconduct Type: Health

Contracting Party: N/A

Court Type: Civil

Amount: \$0

Disposition: Pending

Synopsis: Patient, at age 16, a Suffolk County teenager, received injections of counterfeit drugs after emergency liver transplant in New York. As of 8/11/2004, a court had found that AmerisourceBergen could be sued for negligence.