

## SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made and entered into between the United States Attorney's Office for the District of Rhode Island, acting on behalf of the United States; the Drug Enforcement Administration ("DEA"), Providence Resident Office; and CVS Pharmacy, Inc. and all of its relevant subsidiaries and affiliates ("CVS") (each a "Party" and collectively the "Parties").

### I. Recitals

A. CVS Pharmacy, Inc. is a Rhode Island corporation with its corporate headquarters in Woonsocket, Rhode Island. CVS directly or indirectly operates retail pharmacies in the State of Rhode Island that dispense prescription drugs, including controlled substances, to retail consumers (hereafter referred to as "CVS Pharmacy retail stores").

B. Each CVS Pharmacy retail store is separately registered with DEA and is assigned a unique DEA registration number that authorizes it to dispense controlled substances pursuant to the provisions of the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* ("the Act"), and its implementing regulations.

C. CVS acknowledges that all of its DEA-registered CVS Pharmacy retail stores were and are required to comply with the Act and the regulations promulgated thereunder.

D. Pursuant to 21 U.S.C. §§ 829(a) and 842(a), no Schedule II controlled substance may be dispensed by a pharmacist without a written prescription of a practitioner, except in certain emergency situations. Pursuant to 21 C.F.R. § 1306.04(a), "[a]n order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. § 829) and the person knowingly filling such a purported prescription, as well as the person issuing

it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.”

E. Further pursuant to 21 C.F.R. § 1306.04(a), “[t]he responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.”

F. At all times relevant to this agreement, the Act has provided for civil penalties and/or administrative sanctions for certain violations of the Act and/or its implementing regulations.

G. Between July and September 2017, the DEA Providence Resident Office conducted an investigation into CVS’s dispensing of prescriptions from retail locations in the State of Rhode Island (“DEA Investigation”).

H. As a result of the DEA Investigation, the United States contends that, on or before the effective date of this Agreement, CVS violated the Act and/or its implementing regulations at its Rhode Island CVS Pharmacy retail stores, including by:

in 39 instances between September 9, 2015 and June 18, 2017, filling a prescription for a Schedule II drug under circumstances where the United States contends that the CVS pharmacist filling the prescription knew or had reason to know that the prescription in question was invalid or unauthorized, which the United States contends to be in violation of 21 U.S.C. § 842(a)(1) and 21 C.F.R. § 1306.04, and therefore subject to penalties under 21 U.S.C. § 842.

The conduct described above in this paragraph H is hereinafter referred to as the “Covered Conduct.”

I. This Agreement is neither an admission of liability by CVS nor a concession by the United States that its claims are not well founded.

J. The United States and CVS desire to reach a mutual agreement that settles, compromises, and resolves all claims arising from the Covered Conduct, without any admission

of liability or wrongdoing in this or any other proceeding, in order to avoid the delay, uncertainty, and expense of litigation.

## **II. Terms of Agreement**

In accordance with the mutual covenants and agreements herein, and with full authority to enter into this Settlement Agreement and to be bound thereby, the United States, through the Office of the United States Attorney for the District of Rhode Island and its Drug Enforcement Administration, Providence Resident Office, and CVS agree as follows:

1. CVS shall pay the United States the sum of FIVE HUNDRED AND THIRTY-FIVE THOUSAND DOLLARS (\$535,000.00) ("Settlement Amount"), which shall be paid within ten business days of the execution of this Agreement by all parties.

2. Payment of the Settlement Amount shall be by electronic funds transfer in accordance with written instructions from the Office of the U.S. Attorney, with written notice to said Office following payment. The United States shall provide CVS wire instructions promptly upon the Effective Date of this Agreement.

3. In exchange for, and in consideration of, the foregoing, including specifically CVS's agreement to pay the United States the Settlement Amount, the United States agrees to settle, release, and relinquish all civil and administrative claims, causes of action, suits, debts, in law or equity, against CVS and its current and former parent corporations, direct and indirect subsidiaries, brother and sister corporations, divisions, current or former corporate owners, and any corporate successors or assigns of any of them, based on, arising from, or related to the Covered Conduct described in Paragraph H.

4. Specifically reserved and excluded from the scope and terms of this Agreement and the release it provides are the following:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any civil or administrative liability to the United States (or its agencies) for any conduct other than the Covered Conduct, and/or any civil or administrative liability to the United States for conduct outside the District of Rhode Island; and
- d. Any liability based upon such obligations as are created by this Agreement.

5. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

6. This Agreement binds and is intended to benefit only the Parties. This Agreement is not intended to be, and shall not be interpreted to constitute, a release of any person or entity not identified or referred to herein. This Agreement is specifically limited to the Office of the United States Attorney for the District of Rhode Island and the DEA for the Providence Resident Office and cannot bind other federal, state, or local authorities and jurisdictions.

7. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

8. Each Party and signatory to this Agreement represents that he, she, or it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

9. The parties agree that any dispute regarding this Agreement shall be filed and heard in the United States District Court for the District of Rhode Island, including but not limited to any proceeding to enforce the terms of this Settlement Agreement, and no party shall challenge the

jurisdiction or venue of that Court over such proceedings or the admission of this agreement by the United States in the course of such proceeding.

10. CVS fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that CVS has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct, or arising from the DEA Investigation referenced in Paragraph H, and the resolution of claims based upon the Covered Conduct.

11. This document contains the entire agreement between CVS and the United States regarding the claims at issue herein.

12. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall together constitute one and the same agreement, and for purposes of this agreement, facsimile signatures shall be treated as equivalent to originals.

13. This Agreement may only be modified by a writing signed by both parties.

14. Nothing in this Agreement or elsewhere shall be deemed to render this agreement confidential or otherwise exempt or restricted from public disclosure.

15. This Agreement is effective, final, and binding only as of the date of signature of the last

signatory to the Agreement (Effective Date of this Agreement). The United States agrees to notify CVS promptly when the final signatory has executed this Agreement.

Dated: Providence, Rhode Island

Apr. 8, 2019

AARON L. WEISMAN  
United States Attorney  
50 Kennedy Plaza, 8<sup>th</sup> Floor  
Providence, RI 02903

By:



Richard Myrus  
First Assistant U.S. Attorney

Dated: Woonsocket, Rhode Island

March 25, 2019

CVS Pharmacy, Inc.



Elizabeth Ferguson  
Senior Vice President and Deputy General Counsel  
CVS Pharmacy, Inc.

Dated: Boston, Massachusetts

\_\_\_\_\_, 2019

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Brian D. Boyle  
Special Agent in Charge  
Drug Enforcement Administration  
New England Field Division

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Claire M. Brennan  
Diversion Program Manager  
Drug Enforcement Administration  
New England Field Division

signatory to the Agreement (Effective Date of this Agreement). The United States agrees to notify CVS promptly when the final signatory has executed this Agreement.

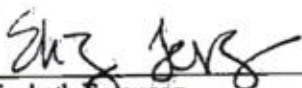
Dated: Providence, Rhode Island  
\_\_\_\_\_, 2019

AARON L. WEISMAN  
United States Attorney  
50 Kennedy Plaza, 8<sup>th</sup> Floor  
Providence, RI 02903

By: \_\_\_\_\_  
Richard Myrus  
First Assistant U.S. Attorney

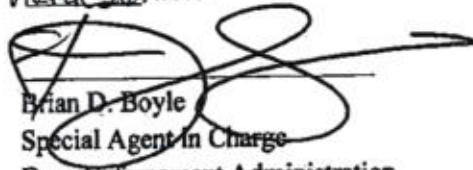
Dated: Woonsocket, Rhode Island  
March 15 2019

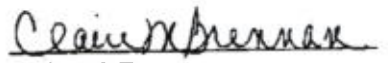
CVS Pharmacy, Inc.

  
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Elizabeth Ferguson  
Senior Vice President and Deputy General Counsel  
CVS Pharmacy, Inc.

Dated: Boston, Massachusetts

March 15, 2019

  
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Brian D. Boyle  
Special Agent in Charge  
Drug Enforcement Administration  
New England Field Division

  
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