

## Allergan sues Valeant, claims fraud in buy attempt (Update)

August 1 2014, by Linda A. Johnson

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Botox and eye-drug maker Allergan is suing a Canadian drugmaker and a hedge fund over their hostile takeover attempt, alleging insider trading and other fraud before their plan became public.

Allergan Inc.'s lawsuit, filed Friday in U.S. District Court in Santa Ana, California, names as plaintiffs drugmaker Valeant Pharmaceuticals International Inc., New York investment and hedge fund firm Pershing Square Capital Management LP and its principal, William Ackerman.

The lawsuit claims debt-laden Valeant, which has bought up more than 100 smaller drug companies since 2008, lined up Pershing Square to finance the deal because it couldn't on its own. The suit claims Pershing Square quietly bought \$3.2 billion worth of shares from unknowing Allergan stockholders between February and April, then reaped a windfall when Valeant publicly proposed buying Allergan in late April, as those shares then jumped about \$1.2 billion in value.

Valeant has since been urging Allergan shareholders to tender their shares in exchange for 0.83 shares of Valeant and \$72 in cash.

On Friday afternoon, Valeant and Pershing Square issued a statement calling "baseless" Allergan's claims related to tender offer rules.

"Allergan's true purpose in bringing the litigation is an attempt to interfere with shareholders' efforts to call a special meeting," the statement said.

Allergan, which also sells dry eye drug Restasis, has rejected multiple unsolicited offers from Valeant and Pershing, the latest for more than \$53 billion. Allergan said they undervalued the Irvine, California, company and would hurt growth prospects.

In early May, Allergan raised its profit forecast for 2014 after its first-quarter results beat Wall Street expectations. In its continuing attempt to fight off the takeover, Allergan has adopted a "poison pill" measure to block it and then on July 21 said it will cut about 13 percent of its workforce and restructure to focus on its "highest value opportunities."

That had the ring of a pre-emptive strike, as Valeant has grown by borrowing billions to buy drugmakers with strong products and revenue, then scrapping much of their research to boost short-term profit.

"This case is about the improper and illicit insider-trading scheme hatched in secret by a billionaire hedge fund investor on the one hand, and a public-company serial acquirer on the other hand," states the lawsuit. "The method the Defendants chose was to operate in secret, flouting key provisions of the federal securities laws designed to protect investors from precisely this type of predatory conduct."

In early July, Valeant proposed six candidates for Allergan's nine-member board. Pershing Square has been urging Allergan shareholders to call for a special meeting to consider the proposed takeover, and said Friday it's hoping in mid-August to deliver requests from holders of enough Allergan shares for that.

If shareholders voted out six current board members, a court could then decide to appoint Valeant's slate as new Allergan directors. Valeant, Pershing Square and activist investor Ackman would then gain control of Allergan.

Valeant, based in Laval, Quebec, said Thursday that it's committed to the acquisition, but slashed its 2014 profit and revenue forecasts in part because of an asset sale.

In trading Friday, Allergan shares dipped 24 cents to \$165.62 and Valeant's rose 82 cents to \$118.21.

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