UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. AEGERION PHARMACEUTICALS, INC., Defendant.	)	Case No. **JURY TRIAL DEMANDED**

COMPLAINT

Plaintiff United States Securities and Exchange Commission ("the Commission") alleges the following against Defendant Aegerion Pharmaceuticals, Inc. ("Aegerion"):

SUMMARY

1. Aegerion, an indirect wholly owned subsidiary of Novelion Therapeutics, Inc. (Novelion"), is a biopharmaceutical company based in Cambridge, Massachusetts. Aegerion was acquired by Novelion (formerly QLT, Inc.) in November 2016. In 2013-2014 Aegerion's sole source of revenue was from the sale of a drug known as Juxtapid, which is used to treat a rare and potentially life-threatening genetic condition. During the period 2013-2014, Juxtapid was priced at approximately $250,000 to $300,000 annually per patient.

2. Beginning in or about 2013 and continuing to in or about 2014, Aegerion misled investors about a key sales metric known as the "conversion rate." Conversion rate measured the percentage of patients who ultimately purchased Juxtapid after receiving prescriptions for it. The number of prescriptions that "converted" into actual sales measured Aegerion's financial

success.

3. Specifically, in April and in July 2013, during public conference calls discussing the company's business results and outlook with investors, analysts, and others, Aegerion's then-Chief Executive Officer ("CEO") represented that the number of written-but-unfilled prescriptions was "not a material number" and that the "vast majority" of prescriptions of Juxtapid converted (that is, resulted in actual sales of the product). On December 3, 2013, at an investor conference, the CEO again represented that the "vast majority" of Juxtapid prescriptions resulted in actual sales.

4. Aegerion's own documents show that throughout 2013 and 2014, Aegerion's monthly conversion rate hovered around 50%.

5. Aegerion's misrepresentations improperly inflated the company's stock price. It was not until October 2014 that Aegerion disclosed to investors that the conversion rate was actually in the range of 50 to 60 percent. Even then, Aegerion failed to reveal to investors that the conversion rate had hovered at around 50 percent since 2013.

6. By engaging in the conduct described in this Complaint, Aegerion violated Section 17(a)(2) and (3) of the Securities Act of 1933 ("Securities Act").

JURISDICTION AND VENUE

7. The Commission seeks a permanent injunction and disgorgement pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)]. The Commission seeks the imposition of a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)].

8. The Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§77t(d), 77v(a)].

9. Venue is proper in this District because, at all relevant times, Aegerion maintained offices in Massachusetts and conducted business in Massachusetts. A substantial part of the actions that give rise to the Commission's claims also occurred in Massachusetts.

10. In connection with the acts described in this Complaint, the defendant directly or indirectly made use of the mails or the means or instruments of transportation or communication in interstate commerce.

11. The defendant's conduct involved fraud, deceit, or negligent disregard of regulatory requirements, and resulted in substantial loss, or significant risk of substantial loss, to other persons.

DEFENDANT

12. **AEGERION PHARMACEUTICALS, INC.**, a Delaware corporation, is a biopharmaceutical company whose principal place of business is in Cambridge, Massachusetts. It is the wholly owned indirect subsidiary of Novelion Therapeutics, Inc., whose corporate headquarters is in Vancouver, British Columbia. Novelion's common stock is registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 and trades on the NASDAQ Global Select Market and the Toronto Stock Exchange under the symbol "NVLN." Prior to Aegerion's acquisition by Novelion, its common stock was registered with the Commission under Section 12(g) of the Securities Exchange Act of 1934 and traded on the NASDAQ stock exchange under the symbol "AEGR." Throughout the relevant time period, Aegerion offered its stock to its employees through its employee stock purchase plan.

STATEMENT OF FACTS

Background on Juxtapid

13. Familial hypercholesterolemia ("FH") is a genetic disease that impairs the function of the receptor responsible for removing low-density lipoprotein cholesterol ("LDL-C") from the blood. People with FH have very high blood cholesterol levels, and they often develop premature and progressive narrowing or blocking of the arteries. They are at very high risk of experiencing heart attacks or strokes at an extremely early age. There are two subcategories of FH, depending on the person's genetic make-up: Heterozygous ("HeFH") and Homozygous ("HoFH"). In general, patients with HeFH have inherited a defective or non-functioning LDL-C receptor gene from only one parent, while patients with HoFH have inherited a defective or non-functioning LDL-C receptor gene from both parents. Having HoFH, rather than HeFH, significantly increases both the severity of symptoms and the risk of death at a young age. HoFH is the least common and most severe form of FH.

14. In December 2012, Aegerion obtained FDA approval of Juxtapid to reduce LDL-C in patients with HoFH. As part of that approval, the FDA required that Aegerion implement a Risk Evaluation and Mitigation Strategy ("REMS"), which was intended to educate patients and prescribers about side effects associated with the use of Juxtapid and to restrict access to Juxtapid therapy to patients with a clinical or laboratory diagnosis consistent with HoFH. The REMS outlined required patient lifestyle changes and potential side effects associated with taking Juxtapid. Patients needed to maintain a low-fat diet and to seek regular liver monitoring, and could experience nausea, vomiting, and stomach pain.

15. Aegerion began marketing Juxtapid in January 2013.

Aegerion Provided Information to Investors about Financial Performance and Non-Financial Metrics

16. During 2013 and 2014, Aegerion, like other publicly-traded companies, routinely made disclosures to investors about its financial performance. Aegerion held regularly-scheduled public conference calls (accompanied by webcast power-point presentations) shortly after the end of each fiscal quarter. These conference calls are referred to as "earnings calls." They are commonly attended by stock analysts who evaluate companies as investment opportunities and make recommendations to investors about whether to buy, sell, or hold a particular company's securities. On these calls, Aegerion discussed its financial results for the recently-ended quarter and reported financial projections going forward.

17. In its earnings calls on April 30, 2013, July 30, 2013, October 30, 2013, and February 26, 2014 (after each of Aegerion's 2013 fiscal quarters), Aegerion reported financial results for the recently-ended quarters and provided guidance about expected financial results going forward. Aegerion also provided, at various times throughout 2013 and 2014, detailed quantitative data about various non-financial metrics, including the number of Juxtapid prescriptions written to date; the number of physicians enrolled in Aegerion's REMS program, the number of sales representatives hired by Aegerion to promote sales of Juxtapid; the number of patients receiving Juxtapid therapy to date, and the number of patients forecasted to be receiving Juxtapid by the end of the year. Aegerion also provided information about patient compliance with the Juxtapid therapy, the number of patients who dropped out of the program after taking Juxtapid, and the conversion rate.

Conversion Rate: A Key Metric

18. Because Juxtapid was a newly-introduced drug as of 2013, and because it was

Aegerion's sole source of revenue, investors and investment analysts had relatively scant financial data by which to assess Aegerion's potential future revenues. Given patients' reluctance to accept the side effects and lifestyle changes required when taking Juxtapid and the high cost of the treatment (with attendant insurance coverage issues), there was uncertainty about whether a prescription would result in an actual sale of Juxtapid. The "conversion rate," which could be used to estimate future sales based on existing prescription data, was material to Aegerion's current and potential investors.

19. Not all patients fill all prescriptions, a fact quantified by the conversion rate metric. A high conversion rate would indicate that a high percentage of patients were getting their prescriptions filled, and that Aegerion had successfully overcome key barriers to marketing Juxtapid, including patient acceptance and insurance coverage. A low conversion rate might indicate that patients were electing not to fill their prescriptions, possibly because of associated dietary restrictions or side-effect risks. A low conversion rate might also indicate that insurance companies were balking at the high costs for Juxtapid (approximately $250,000 to $300,000 annually).

20. Aegerion's CEO, CFO, and COO received daily, weekly, and monthly updates throughout 2013 and 2014 showing how many Juxtapid prescriptions were generated, how many prescriptions were approved by insurance companies, and how many shipments were sent to patients. This data was sufficient to enable the recipients to compute conversion rate using simple division. Throughout the relevant time period, the monthly conversion rate hovered at around 50%.

Aegerion's CEO Made Misstatements about the Conversion Rate

21. On April 30, 2013, Aegerion held its quarterly earnings call for the quarter ended

March 31, 2013 (Aegerion's first quarter of 2013). After the initial webcast of a power-point presentation by Aegerion representatives, the firm took questions. An analyst asked the company to describe how frequently patients who are initially prescribed Juxtapid ultimately determine not to take the drug. Aegerion's CEO responded to the question by saying, among other things, "[i]t's a very small number. It's not material."

22. This was false. As of April 30, 2013, Aegerion's conversion rate was less than 50%. Analyst reaction to the CEO's statement reflects the significance of the remark: following Aegerion's first quarter 2013 earnings call, at least one analyst's firm adjusted its model for Aegerion's anticipated future earnings to assume a 75% conversion rate (the analyst had previously assumed a conversion rate of 50%).

23. Throughout June and July 2013, Aegerion continued to generate detailed tracking data and continued to report this data to senior management. The conversion rate remained around 50%.

24. On July 30, 2013, Aegerion held its quarterly earnings call for the quarter ended June 30, 2013 (Aegerion's second quarter of 2013). Following Aegerion's initial presentation, the same analyst who had asked about conversion rate on the April 30, 2013 earnings call again asked, "[W]ondering what the conversion rate to-date has been from patients who originally [are] written a prescription to actually starting therapy?" Aegerion's CEO responded, among other things, "We haven't given that percent. It's high. It's very high." He further asserted that the "vast majority of patients" who were given prescriptions for Juxtapid actually followed through and began Juxtapid therapy.

25. Following the July 30, 2013 earnings call, at least four analysts incorporated a conversion rate that ranged between 85% and 90% into their financial analysis. In reality, the

conversion rate remained in the vicinity of 50%.

26. During the October 30, 2013 earnings call, the CEO was again asked about conversion rate, along with other metrics. The CEO did not specifically reference 'conversion rate' in his answer but said that prescriptions were accelerating and that "[t]he other metrics you asked about are solid; they are rock solid." This response misleadingly suggested that the conversion rate remained generally where it was the last time the company spoke about it, on July 30, 2013, when the CEO had stated the "vast majority of patients" prescribed Juxtapid took shipment.

27. Each quarter, Aegerion typically made a webcast power-point presentation to accompany its earnings calls. The power-point presentation usually included a forward-looking statement advising investors of certain risks associated with investing in Aegerion. The power-point presentation accompanying Aegerion's October 30, 2013 earnings call for the quarter ended September 30, 2013 included a slightly modified caveat about conversion rate. Rather than correcting its false representation that a "vast majority" of Juxtapid prescriptions ultimately converted to product sales, the caveat warned that there was a "risk that the rate of conversion of prescriptions for lomitapide [the clinical name for Juxtapid] into patients on therapy may be lower than we expect." This statement was misleading because, at the time, it was not simply a "risk," but rather a known reality, that the conversion rate was significantly lower than the "vast majority" that had been cited in Aegerion's public statements.

28. On December 3, 2013, Aegerion reiterated its prior misstatements about the conversion rate for Juxtapid. On that date, Aegerion's CEO attended a conference that hosted informational panels for investors. There, an analyst asked Aegerion whether the number of prescriptions not converting to shipments was in the "low single digits." In response to this

question, Aegerion's CEO again failed to truthfully describe the conversion rate while noting that he had said in the past that "the vast majority of patients do" take shipment.

29. On February 26, 2014, during the earnings call for the quarter that ended December 31, 2013 (Aegerion's fourth quarter of 2013), Aegerion representatives suggested that more patients prescribed Juxtapid were reluctant to start taking the drug than the company had "previously anticipated." When an analyst asked whether this patient reluctance issue was in fact a new development, the CEO responded, "this definitely emerged, and we understood it much better, in the back half of the year." In actuality, there had been no significant change in the conversion rate throughout 2013.

30. Following this call, Aegerion's stock price dropped $4.81 per share, from a closing price of $66.35 per share on February 25, 2014 (the day before the call) to a closing price of $61.54 per share on February 26, 2014, the day of the call.

31. Not until Aegerion's October 30, 2014 earnings call for the quarter ended September 30, 2014 (Aegerion's third quarter of 2014), did Aegerion finally tell investors that the conversion rate for Juxtapid was "running in the range of 50-60%." The earnings call also reported lower-than-expected quarterly revenue and reduced revenue expectations.

32. On October 31, 2014, the first trading day after the call, Aegerion's stock price dropped $14.02 per share, or approximately 41%, to a 52-week low of $20.19 per share from the prior day's close of $34.21 per share. Trading volume skyrocketed that day, with a trading volume of over 18 million shares traded, compared to a daily average for the month prior of approximately 900,000 shares traded. At least five analyst firms downgraded their rating of Aegerion's stock that same day.

FIRST CLAIM

Fraud in the Offer or Sale of Securities in Violation of Section 17(a)(2) and (3) of the Securities Act

33. The Commission repeats and incorporates by reference the allegations in paragraphs 1-32 above as if set forth fully herein.

34. The defendant engaged in a fraudulent course of conduct that included making material misrepresentations and omissions regarding the percentage of prescriptions for Juxtapid that ultimately converted into actual sales of the drug. By engaging in the conduct described above, the defendant, directly and indirectly, acting negligently, in the offer or sale of securities by the use of means or instrumentalities of interstate commerce or the mails, obtained money or property by means of untrue statements of material fact or the omission of a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading; and engaged in transactions, practices or courses of business which operated as a fraud or deceit upon purchasers of the securities.

35. By reason of the forgoing, the defendant violated Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §77q(a)(2) and (3)].

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Enter a permanent injunction restraining the defendant and each of its agents, servants, employees and attorneys and those persons in active concert or participation with it who receive actual notice of the injunction by personal service or otherwise, including facsimile transmission or overnight delivery service, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect;

B. Require the defendant to pay an appropriate civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)];

C. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

D. Award such other and further relief as the Court deems just and proper.

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION
By its attorneys,

/s/ Marc Jones

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