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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

\_\_\_\_\_ individually and  
on behalf of all others similarly situated,  
Plaintiff,

vs.

VALEANT PHARMACEUTICALS  
INTERNATIONAL, INC.,  
VALEANT PHARMACEUTICALS  
INTERNATIONAL, AGMS, INC.,  
PERSHING SQUARE CAPITAL  
MANAGEMENT, L.P., PS  
MANAGEMENT GP, LLC, PS  
FUND 1, LLC, WILLIAM A.  
ACKMAN, and DOES 1-10,  
Defendants.

Civil Action No. \_\_\_\_\_

Class Action

**Complaint for Violations of the  
Federal Securities Laws**

**Demand for Jury Trial**

1 Plaintiff [REDACTED] (“Plaintiff”) alleges the following based upon the  
2 investigation of his counsel, which included a review of, among other things, United  
3 States Securities and Exchange Commission (“SEC”) filings, securities analyst reports  
4 and advisories, press releases and other public statements, media reports, and court  
5 filings in related cases. Plaintiff believes that substantial evidentiary support will exist  
6 for the allegations set forth in this complaint, after a reasonable opportunity for  
7 discovery.

### 8 NATURE OF THE ACTION

9 1. This is a class action on behalf of all persons and entities who sold  
10 Allergan, Inc. (“Allergan”) common stock between February 25, 2014 and April 21,  
11 2014 (the “Class Period”) and were harmed as a result of the misconduct alleged below.

12 2. Plaintiff asserts claims for, among other things, insider trading against:

13 (a) Pershing Square Capital Management, L.P. (“Pershing Square”), PS  
14 Management GP, LLC (“PS Management”), William A. Ackman (“Ackman”) and  
15 PS Fund 1, LLC (“PS Fund 1” and, collectively, the “Pershing Defendants”); and

16 (b) Valeant Pharmaceuticals International, Inc. (“Valeant  
17 International”), Valeant Pharmaceuticals International (“Valeant USA”), and  
18 AGMS, Inc. (“AGMS”) (collectively, “Valeant”) (Valeant and the Pershing  
19 Defendants are collectively referred to as “Defendants”).

20 As set forth in detail below, by purchasing Allergan stock with material, non-public  
21 information during the Class Period, and by communicating material, non-public  
22 information, Defendants violated, among other things, Section 14(e) of the Securities  
23 Exchange Act of 1934 (the “Exchange Act”), as amended by the Williams Act of 1968  
24 (the “Williams Act”), codified in 15 U.S.C. § 78n(e), as well as Exchange Act Rules 14a-  
25 9 and 14e-3, codified at 17 CFR § 240.14e-3 and promulgated by the SEC under the  
26 Exchange Act.

1           3.       Plaintiff's claims arose from the events leading up to Valeant's June 17,  
2 2014 announcement of a tender offer for Allergan, a multi-specialty health care  
3 company headquartered in Irvine, California.

4           4.       Defendants profited from their misconduct alleged in this complaint. In  
5 November 2014, Ackman said that Pershing Square would realize a profit of  
6 approximately **\$2.5 billion** from its investment of less than a year in Allergan. Ackman  
7 and Pershing Square were only able to generate such outsized profits unlawfully by, as  
8 alleged in detail below, taking advantage of insider information – provided by Valeant –  
9 and acquiring a very significant stake in Allergan ahead of the broader market in  
10 violation of the securities laws.

11           5.       To acquire a significant stake in Allergan, Pershing Square formed, on  
12 February 11, 2014, PS Fund 1– a shell entity in which Valeant later made a relatively  
13 small investment. The relationship between Pershing Square and Valeant was  
14 memorialized in a February 25, 2014 letter agreement, which they entered into in  
15 anticipation of Valeant's tender offer for Allergan.

16           6.       On or about February 6, 2014, Valeant began taking substantial steps  
17 toward launching a tender offer directly to Allergan's stockholders. Valeant hired  
18 financial and legal advisors, held multiple board meetings, negotiated the respective  
19 financial commitments of Valeant and the Pershing Defendants, and agreed to commit  
20 over \$75 million to the entity that would acquire Allergan stock. In their financing  
21 agreement, Valeant and Pershing Square went so far as to claim in writing that they were  
22 not contemplating a tender offer – a self-serving attempt to circumvent the insider  
23 trading rules – yet then agreed in the same document on the procedures each would  
24 follow if a tender offer were to occur. Indeed, Valeant's board meeting materials reflect  
25 that its directors recognized a high likelihood of a hostile takeover for Allergan.

26           7.       In violation of the federal securities laws, Valeant tipped Pershing Square  
27 regarding Valeant's tender offer. Pershing Square, through its shell entity PS Fund 1,  
28 began to acquire Allergan stock based upon that inside information.

1           8. Armed with the material non-public information that Valeant would  
2 launch a tender offer for Allergan’s shares, PS Fund 1 began buying up significant  
3 amounts of Allergan stock on February 25, 2014 – taking careful steps to avoid making  
4 any disclosure of its intentions:

5           (a) Rather than buying Allergan stock directly, PS Fund 1 bought zero-  
6 strike price “call options.” These zero-strike options gave PS Fund 1 essentially  
7 the same ownership rights as if it had purchased the shares directly.

8           (b) PS Fund 1’s formation agreement was not amended to add Valeant  
9 as a member until April 6, 2014, and Valeant’s capital contribution – a minor 3  
10 percent of the total funds – was not made until April 10, 2014, just one day  
11 before PS Fund 1’s ownership of Allergan stock crossed the 5% threshold on  
12 April 11, 2014.

13           (c) During the ten-day period from April 11 to April 21, 2014, PS Fund  
14 1 continued on an even more rapid buying spree, in order to take advantage of  
15 the Williams Act’s outdated ten-day window, an oft-criticized provision that  
16 allows an investor to wait ten full days after crossing the 5% threshold before  
17 disclosing its purchases and intentions to the market. By the time Pershing  
18 Square finally disclosed PS Fund 1’s stake on April 21, 2014, they had acquired  
19 9.7% of Allergan’s outstanding stock, for a total investment at the time of over  
20 \$3.2 billion – without providing Allergan’s stockholders and the marketplace any  
21 disclosure about Valeant’s intention to launch a tender offer for Allergan.

22           9. Allergan’s stockholders and the marketplace, however, were unaware of  
23 the Pershing Defendants’ undisclosed purchases of Allergan stock. Nor were they  
24 aware that Valeant’s tender offer was forthcoming.

25           10. As a result, Plaintiff and other Allergan shareholders who sold Allergan  
26 stock during the Class Period sold on an uninformed basis at an unfair price – while  
27 Ackman was profiting unlawfully from his early inside information about the expected  
28 tender offer.

1           11. Once Pershing Square had accumulated its position, Valeant publicly  
2 announced for the first time that it wished to “negotiate” a merger agreement with  
3 Allergan’s board, and offered a mix of cash and Valeant stock for each Allergan share.  
4 Upon that April 22, 2014 announcement, the value of Pershing Square’s investment in  
5 Allergan stock increased by a billion dollars.

6           12. In its first communications, Valeant carefully avoided disclosing that it  
7 planned to launch a “tender offer,” but instead claimed to be interested in a friendly  
8 merger. Based on Allergan’s response to Valeant’s prior overture, however, and as  
9 corroborated by analyst comments in February 2014, which underscored that Allergan  
10 would not be interested in merging with Valeant – particularly where Allergan’s  
11 stockholders would be compensated in large part with Valeant stock – Valeant was well  
12 aware that a friendly business combination would not likely occur, and conceded as  
13 much later on. Indeed, contrary to Valeant’s claim that it was looking for a friendly  
14 deal, Valeant and Pershing Square, *from the outset*, engaged in the sorts of pressure tactics  
15 commonly associated with hostile tender offers: a media blitz, multiple threatening  
16 letters to Allergan’s board, and direct communications with Allergan’s customers and  
17 employees.

18           13. As Valeant fully expected, after carefully considering Valeant’s proposal,  
19 Allergan’s board of directors concluded that the offer undervalued Allergan and was not  
20 in the best interests of its stockholders, and made clear that Allergan would not engage  
21 in discussions about a potential merger transaction like the one Valeant was proposing.  
22 Thus, on June 2, 2014, Valeant publicly announced that it would launch a hostile tender  
23 offer for Allergan’s shares.

24           14. Although Valeant ultimately withdrew from the bidding competition for  
25 Allergan in November 2014 (after another potential acquirer made a higher bid),  
26 Allergan’s stock price increased substantially as a result of the tender offer. Thus, the  
27 Pershing Defendants profited handsomely – and illegally – from their massive purchases  
28 of Allergan stock during the Class Period, based on material, non-public information.

## THE PARTIES

### I. Plaintiff

15. As set forth in the accompanying sworn certification, Plaintiff ██████████ sold Allergan stock during the Class Period and was harmed as a result.

### II. Defendants

#### A. Valeant

16. Defendant Valeant International is a publicly-traded company incorporated under the laws of the Province of British Columbia, Canada with its principal place of business in Laval, Quebec, Canada. Valeant International manufactures and markets pharmaceuticals, over-the-counter products, and medical devices in the areas of eye health, dermatology, and neurology therapeutic classes. Valeant International actively and directly participated in the proposed offer made to Allegan employees and stockholders.

17. Defendant Valeant USA is a Delaware corporation with its principal place of business in New Jersey. Valeant USA actively and directly participated in the proposed offer made to Allergan employees and stockholders, and became a member of PS Fund 1 on April 6, 2014.

18. Defendant AGMS is a Delaware Corporation and wholly owned subsidiary of Valeant International. Valeant is pursuing its tender offer through AGMS.

#### B. The Pershing Defendants

19. Defendant Pershing Square is an investment adviser founded in 2003 and registered with the SEC under the Investment Advisers Act of 1940, as amended. It manages a series of hedge funds. Pershing Square is a Delaware limited partnership with its principal place of business in New York, New York.

20. Defendant PS Management serves as the sole general partner of Pershing Square. PS Management is a Delaware limited liability company with its principal place of business in New York, New York.



## SUBSTANTIVE ALLEGATIONS

### I. Valeant Takes Substantial Steps Toward a Tender Offer

#### A. Valeant Made an Overture to Allergan in 2012

27. Valeant had been considering a potential transaction with Allergan since the fall of 2012, when Robert A. Ingram was serving on both the Allergan and Valeant boards.

28. On September 10, 2012, Valeant's CEO and Chairman, J. Michael Pearson, reached out to Allergan's CEO, David E.I. Pyott, and expressed interest in a merger with Allergan. Around the same time, in light of the pending merger of Valeant and Medicis Pharmaceutical Corporation, an Allergan competitor, Allergan requested that Mr. Ingram step down from one of his directorships given the potential for a conflict of interest. Mr. Ingram repeatedly told his Allergan colleagues that he would step down from Valeant's board before the December 2012 Allergan board meeting.

29. On the basis of his representations, Mr. Ingram was permitted to attend Allergan board and strategic meetings in September 2012, during which confidential information about Allergan's business and strategy was discussed.

30. In December 2012, contrary to his representations, Mr. Ingram instead resigned from Allergan's board, and stayed on at Valeant. It has since come to light that Valeant had been considering, and indeed, authorized an acquisition of Allergan in September 2012, prior to closing the Medicis transaction and prior to Mr. Ingram's attendance at the September 2012 Allergan board meeting.

31. Because of Allergan's lack of interest, Mr. Pearson understood that (a) Valeant would likely have to launch a hostile takeover in order to acquire Allergan; and (b) any such takeover attempt would require substantial financing. Yet, Valeant's ability to obtain such financing was strained due to a series of aggressive mergers and takeovers in the past few years. Indeed, according to its April 22, 2014 press release, Valeant entered into over 100 transactions since 2008. And it was well known that Valeant's business strategy entails aggressive expansion through mergers.

1           **B.     Valeant Prepared for a Tender Offer in February 2014, Together with**  
2           **Pershing Square**

3           32.     Because Allergan’s board was not interested in a transaction with Valeant  
4 in 2012 and declined to engage in discussions, Valeant was well aware in early 2014 that  
5 Allergan was not likely to be supportive of a friendly merger. Therefore, Valeant began  
6 plotting an alternate course.

7           33.     Less than a year after its \$8.7 billion acquisition of Bausch & Lomb in  
8 November 2013, debt-laden Valeant grew even more interested in acquiring Allergan,  
9 which had \$1.5 billion in cash, to help even out Valeant’s books.

10          34.     Pershing Square, operated under and controlled by Ackman, was an ideal  
11 partner to provide the necessary financing Valeant needed to launch a hostile takeover  
12 of Allergan. Well known as an “activist investor,” Ackman typically tried to make  
13 money by acquiring minority stakes in companies and threatening their boards with a  
14 proxy contest unless they take steps toward a short-term increase in the stock price  
15 (often through a merger). Managing approximately \$13 billion in capital, Pershing  
16 Square is experienced in handling hostile takeovers.

17          35.     Around the same time, Pershing Square hired William F. Doyle as a  
18 “special advisor.” A business school classmate of Ackman’s, Mr. Doyle provided the  
19 inside connection Mr. Pearson needed to reach out to Pershing Square. The retention  
20 of Doyle was a calculated decision on the part of Mr. Pearson to form a partnership  
21 with Pershing Square in a concerted attempt to launch a hostile takeover of Allergan.

22          36.     As early as February 4, 2014, and continuing for the next several weeks,  
23 Valeant took substantial steps toward a tender offer by engaging in concerted efforts  
24 with the Pershing Defendants to start acquiring Allergan stock.

25          37.     First, through Mr. Doyle, Mr. Pearson and Ackman met on February 4,  
26 2014, to discuss potential partnerships in acquisitions, including the potential acquisition  
27 of Allergan.

28          38.     On February 6, 2014, Mr. Pearson and Ackman had a telephone call in  
which they further discussed how they might work together to pursue targets in the

1 pharmaceutical industry. Conceptually, they discussed a potential structure in which  
2 Valeant would identify a target and disclose it confidentially to Pershing Square, after  
3 which Pershing Square could decide whether it was interested in working with Valeant  
4 with respect to such target and, if it was not, Pershing Square would agree not to make  
5 purchases of securities in such target. No specific targets were discussed on the  
6 telephone call. If Pershing Square were to decide that it was interested in working with  
7 Valeant with respect to a particular target identified by Valeant at a later date, then  
8 Pershing Square would conduct independent due diligence on the target, confirm its  
9 interest in working with Valeant to pursue a potential combination of Valeant and the  
10 target, and proceed to develop a strategy to purchase equity in the target.

11 39. Around the same time, Mr. Pearson made an appointment to meet with  
12 Mr. Pyott the following weekend to follow up on their September 2012 discussions  
13 regarding the possibility of combining Valeant and Allergan.

14 40. Beginning on February 6, 2014, Valeant engaged three law firms – Sullivan  
15 & Cromwell LLP, Skadden, Arps, Slate, Meagher & Flom LLP, and Osler, Hoskins &  
16 Harcourt LLP – as counsel in connection with a potential Allergan transaction.

17 41. On February 7, 2014, the Finance and Transactions Committee of  
18 Valeant's board of directors held a telephonic meeting at which they discussed a  
19 possible combination of Valeant and Allergan. During the next two weeks, Valeant's  
20 board – and different subcommittees thereof – met five more times to discuss takeover  
21 plans.

22 42. On February 9, 2014, Valeant and Pershing Square entered into a  
23 confidentiality agreement (which was amended on February 20, 2014), after which Mr.  
24 Pearson informed Ackman of Valeant's interest in a potential transaction with Allergan.

25 43. With its inside knowledge of Valeant's impending takeover, Pershing  
26 Square agreed to use its own funds to acquire a significant stake in Allergan, in order to  
27 (a) support Valeant's efforts; and (b) secure massive profits for itself. In furtherance of  
28 Valeant's plan, on February 11, 2014, Pershing Square and other Pershing Square

1 entities formed a new Delaware limited liability company, PS Fund 1, that would  
2 ultimately carry out the stock acquisition.

3 44. On February 13, 2014, representatives of Valeant and Pershing Square and  
4 their respective counsel met to discuss a potential transaction involving Allergan.

5 45. During this period, Valeant's board of directors met at least six times (on  
6 February 7, 9, 16, 17, 18 and 21, 2014) to discuss a potential acquisition of Allergan.  
7 According to a November 4, 2014 order in *Allergan, Inc. v. Valeant Pharmaceuticals*  
8 *International, Inc.*, No. SACV 14-1214 DOC (ANx) (C.D. Cal.) (the "November 4, 2014  
9 Order"), Valeant's board meeting materials "reflect that Valeant knew there was a high  
10 likelihood that a transaction with Allergan would involve a '[h]ostile cash and stock  
11 merger.'"

12 **C. Valeant and the Pershing Defendants Entered into the Relationship**  
13 **Agreement**

14 46. Between February 20, 2014 and February 25, 2014, representatives of  
15 Valeant and Pershing Square and their respective counsel exchanged drafts of and  
16 negotiated a contractual and financial agreement related to the purchase of equity in  
17 Allergan (the "Relationship Agreement"). Valeant and Pershing Square finalized and  
18 executed the Relationship Agreement on February 25, 2014.

19 47. Under the Relationship Agreement, Valeant agreed to contribute \$75.9  
20 million – the maximum allowed without triggering antitrust disclosure requirements – to  
21 the proposed "co-bidder entity" in PS Fund 1 to assist with the Pershing Defendants'  
22 acquisition of a significant stake of Allergan's stock at non-premium prices before  
23 Valeant disclosed its takeover plans to the market. Pershing Square supplied funds of  
24 over \$3 billion, and retained sole control over PS Fund 1.

25 48. In the event that Valeant would launch a tender offer, Pershing Square and  
26 Valeant were required under the Relationship Agreement to identify themselves as "co-  
27 bidders."  
28

1           49. Throughout the weeks during which Valeant was taking these substantial  
2 steps, it remained clear to Valeant that Allergan would not likely be interested in  
3 negotiating a friendly merger with Valeant. On February 10, 2014, in connection with  
4 Allergan senior management's meetings with analysts, Sanford B. Bernstein & Co.  
5 published a report of its discussions with Mr. Pyott, reporting that an acquisition of  
6 Allergan by Valeant "was not a good fit and shareholders would hesitate to take Valeant  
7 paper." That same day, Bank of America Merrill Lynch analyst Gregg Gilbert issued a  
8 note stating that Allergan would not be interested in a transaction with Valeant.

9           50. In light of this negative press, and consistent with his expectation that a  
10 friendly combination would not be possible, Mr. Pearson cancelled his scheduled  
11 February 14, 2014 meeting with Mr. Pyott.

12           51. Given this chronology, Mr. Pearson knew that a negotiated transaction  
13 would not be possible and that a hostile tender offer would ultimately be necessary. Mr.  
14 Pearson's anticipation of a tender offer was reflected in Valeant's February 17, 2014  
15 Rule 425 filing with the SEC, in which he stated that he was "correct" in his initial  
16 suspicion that Valeant "would ultimately have to go directly to Allergan shareholders."

17           52. Thus, before Valeant and Pershing Square entered into the Relationship  
18 Agreement on February 25, 2014, and before PS Fund 1 had purchased any shares of  
19 Allergan, Valeant had already taken substantial steps toward commencing its tender  
20 offer, including: (a) engaging legal counsel; (b) reaching out to Ackman and convincing  
21 him to participate as a financier and supporter; (c) holding board and committee  
22 meetings regarding the potential offer on February 7, 9, 16, 17, 18 and 21, 2014; (d)  
23 negotiating the respective financial commitments of Valeant and the Pershing  
24 Defendants; and (e) agreeing to commit over \$75 million to the Relationship Agreement  
25 to help finance the stock acquisition.

1 **II. Valeant and Pershing Square Violated Rule 14e-3 by Tipping and Trading**  
2 **on Material Non-Public Information About a Tender Offer**

3 53. In the Relationship Agreement, Defendants specifically claimed to be  
4 “co-bidders” in connection with a potential Allergan transaction – likely in order to  
5 support an argument that they were all the same “person” for purposes of the insider  
6 trading rules. Armed with this self-serving label, PS Fund 1 (directed by Pershing  
7 Square and Ackman) secretly purchased a substantial amount of Allergan stock without  
8 filing disclosure documents with the SEC or paying any form of control premium.

9 54. Pershing Square was the primary actor in purchasing Allergan stock; it  
10 provided approximately 97.5% of the funding for PS Fund 1, and the Relationship  
11 Agreement states that Pershing Square Capital Management “will direct the  
12 management” of PS Fund 1.

13 55. In a series of complex, undisclosed, and carefully-calculated transactions  
14 between February 25 and April 21, 2014, PS Fund 1 acquired 9.7% of Allergan’s stock  
15 (the “Allergan Stock Purchase Program”), primarily through over-the-counter (“OTC”)  
16 call options and OTC equity futures. This percentage of Allergan’s stock was just shy  
17 of the “short swing” profits prohibition in Section 16 of the Exchange Act, which  
18 requires holders of greater than 10% of a company’s stock to disgorge any profits made  
19 in a six-month buy-sell period.

20 56. The Pershing Defendants began the Allergan Stock Purchase Program at a  
21 time when they unquestionably had material non-public information relating to  
22 Valeant’s forthcoming tender offer, in violation of Section 14(e) of the Williams Act, as  
23 well as Rule 14e-3.

24 57. Rule 14e-3 provides that, where any person has taken “a substantial step or  
25 steps” (the “offering person”) to commence a tender offer of a target company, any  
26 “other person” who is in possession of material non-public information relating to that  
27 tender offer is prohibited from purchasing or selling any securities of the target  
28 company, unless the information is publicly disclosed within a reasonable time prior to  
the purchase or sale. The rule imposes a duty to disclose or abstain from trading

1 irrespective of whether the trader owes a duty to respect the confidentiality of the  
2 information.

3 58. Valeant took substantial steps toward a tender offer for Allergan's stock  
4 beginning on or before February 6, 2014. Moreover, having already been rebuffed,  
5 Valeant knew that it would not likely be able to acquire Allergan through a "friendly"  
6 deal, and that a hostile tender offer was therefore inevitable.

7 59. Valeant told Pershing Square about Valeant's confidential plans to launch a  
8 tender offer precisely because Valeant wanted Pershing Square to trade on that  
9 information. Valeant wanted as many shares as possible to be held by stockholders that  
10 Valeant perceived as likely to support an Allergan takeover, but since it could not pay  
11 for the shares directly, it turned to Pershing Square. The illicit tip from Valeant was  
12 Pershing Square's incentive to join the scheme. Pershing Square agreed and acquired  
13 9.7% of Allergan's outstanding stock while in possession of that material, non-public  
14 information.

15 60. None of the parties disclosed Valeant's takeover intentions until long after  
16 the purchases were made, and long after Allergan stockholders – including Plaintiff –  
17 and the overall market had been damaged to the benefit of Pershing Square and  
18 Valeant.

19 61. Plaintiff was harmed and suffered damages as a result of these trades  
20 because he did not know the information he was entitled to know under Rule 14e-3's  
21 disclose-or-abstain requirement, and consequently sold his Allergan stock for an unfair  
22 price and did not receive the benefit of the premium that followed once Valeant's  
23 proposal – the material non-public information possessed by Pershing Defendants –  
24 was released to the market.

25 62. Indeed, the Pershing Defendants reaped a multi-billion-dollar benefit  
26 when Valeant's proposal was announced. The Pershing Defendants thus exploited  
27  
28

1 exactly the sort of informational advantage that Rule 14e-3 was designed to prevent  
2 because, as the SEC stated when adopting the rule:<sup>1</sup>

3 The Commission has previously expressed and continues to  
4 have serious concerns about trading by persons in possession  
5 of material, non-public information relating to a tender offer.  
6 This practice results in unfair disparities in market  
7 information and market disruption. Security holders who  
8 purchase from or sell to such persons are effectively denied  
9 the benefits of disclosure and the substantive protections of  
10 the Williams Act. If furnished with the information, these  
11 security holders would be able to make an informed  
12 investment decision, which could involve deferring the  
13 purchase or sale of the securities until the material  
14 information had been disseminated or until the tender offer  
15 had been commenced or terminated. Moreover, the Williams  
16 Act was designed to avert a “stampede effect” in the context  
17 of tender offers, and the trading on material, non-public  
18 information and the dissemination of leaks and rumors in  
19 connection with such trading tends to promote this  
20 detrimental effect.

21 As Ackman boasted on November 26, 2014, the Pershing Defendants’ profit has now  
22 increased to *\$2.5 billion*.

23 63. In an effort to circumvent Rule 14e-3, Valeant and Pershing Square  
24 attempted in their written agreements with each other to construct a “co-bidder” fiction  
25 – falsely suggesting that they should be considered a single “person” or “offering  
26 person” under the Rule. However, Valeant and Pershing Square’s construction of a  
27 shell entity through which to act, and their self-serving description of their own  
28 conduct, are irrelevant. The terms of the Relationship Agreement, the parties’  
subsequent actions, and the economics of this attempted takeover make clear that they  
were not acting as a single “offering person” at the time of Pershing Square’s trades.

64. At the time the proposed acquisition was announced, Valeant was the sole  
bidder. The proposal to acquire Allergan was not made by Ackman or Pershing Square,  
nor was it made on behalf of Ackman or Pershing Square.

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<sup>1</sup> See Tender Offers, Exchange Act Release No. 17120, 1980 WL 20869 (Sept. 4, 1980).

1           65. Crucially, only Valeant is offering consideration in the form of shares and  
2 cash to Allergan’s stockholders. By contrast, Ackman and the other Pershing Square  
3 entities are together offering nothing to Allergan stockholders – they are seeking to sell  
4 Allergan stock, as Valeant seeks to buy it. In fact, as noted in the November 4, 2014  
5 Order, the Form S-4 filed by Defendants clearly stated that:

6           (a) “Valeant (through [AGMS])” – not the Pershing Defendants – was  
7 offering to acquire Allergan common stock; and

8           (b) “[N]one of Pershing Square, PS Fund 1 or any of Pershing Square’s  
9 affiliates [was] offering to acquire any shares of Allergan common stock in the  
10 offer.”

11           66. Moreover, Ackman was not going to be a board member of Valeant,  
12 would not otherwise be a control person of Valeant, and was not going to receive any  
13 business or asset of Allergan as a result of the tender offer. Ackman also confirmed  
14 publicly that it was Valeant, and not Pershing Square, that would retain complete  
15 control over the transaction. In a July 21, 2014 interview on CNBC, when asked  
16 whether he and Valeant would “raise their offer” in light of Allergan’s strong second  
17 quarter performance, Ackman responded, “Valeant controls what they’re prepared to  
18 pay.” In fact, the November 4, 2014 Order found that, “at minimum,” “serious  
19 questions” were raised as to “whether Pershing Square [was] an ‘offering person’ or ‘co-  
20 offering person’ exempt from Rule 14-e-3’s ‘disclose or abstain’ rule.” Accordingly,  
21 regardless of semantics, Ackman and Pershing Square entities are *not* an “offering  
22 person” within the meaning of Rule 14e-3.

23           67. Valeant concedes that it was not even added as a member of PS Fund 1  
24 until well into the Allergan Stock Purchase Program – April 6, 2014 – and did not  
25 contribute any capital to PS Fund 1 until April 10, 2014. By this time, PS Fund 1 had  
26 acquired more than 11 million shares or options.

27           68. Even after Valeant purportedly became a member of PS Fund 1, the  
28 nature of Defendants’ relationship remained clear: Valeant was an offering person, and

1 PS Fund 1 – at the direction of Pershing Square – was another person acquiring shares  
2 in violation of Rule 14e-3.

3 69. Under the Relationship Agreement, Pershing Square retains the authority  
4 to act for its own account – even in contravention of Valeant’s interests. The  
5 Relationship Agreement provides that it will terminate if a “Third Party Transaction  
6 Proposal” – a public proposal by a bidder other than Valeant – is made, and Valeant  
7 does not match or exceed that proposal within 45 days.

8 70. The Relationship Agreement also gives Valeant unilateral discretion to  
9 terminate the contract upon notice to Pershing Square that “it is not interested in  
10 consummating” a transaction with Allergan. Regardless of the “co-bidder” label, under  
11 the terms of the Relationship Agreement, Pershing Square was not the same “person”  
12 as Valeant with respect to this proposal. Rather, it remains a separate, independent  
13 investor, unaffiliated with Valeant, which has retained the freedom to accept a better  
14 deal if one comes along – while Valeant has retained unilateral discretion to terminate  
15 the takeover altogether.

16 71. Valeant and Pershing also took great pains to conceal their true intent early  
17 on by purposely including language in their agreement that “no steps have been taken  
18 toward a tender or exchange offer.”

19 72. This statement was not only demonstrably false, but also clearly crafted in  
20 an attempt to circumvent the prohibitions of Rule 14e-3 and requirements of the  
21 Williams Act more generally.

### 22 **III. The Allergan Stock Purchase Program Was Carefully Designed to Avoid 23 Required Disclosure**

24 73. In addition to violating Rule 14e-3, the Allergan Stock Purchase Program  
25 was aimed at preserving secrecy and seeking to evade disclosure requirements at every  
26 turn.

1           74.     The manner in which these trades occurred was carefully designed to  
2 preserve the secrecy of the block acquisitions and therefore Pershing Square's  
3 informational advantage over the market.

4           75.     On February 25 and 26, 2014, PS Fund 1 acquired approximately 600,000  
5 shares of the outstanding common stock of Allergan.

6           76.     Between March 3, 2014 and April 8, 2014, PS Fund 1 acquired additional  
7 Allergan shares, bringing its holdings up to 4.99% through deep-in-the-money  
8 American-style, OTC zero-strike call options. These zero-strike price options were  
9 unique in that, because of the extremely low strike price, they were guaranteed to be  
10 exercised and thus were the equivalent of outright ownership.

11           77.     Just shy of the 5% reporting threshold under Section 13(d), these  
12 purchases also allowed Valeant to avoid antitrust disclosure requirements.

13           78.     Pershing Square then halted trading for two days to let Allergan's stock  
14 price settle down to a purported "unaffected" stock price.

15           79.     Taking advantage of the 10-day window under Section 13(d), PS Fund 1  
16 continued with the second half of its aggressive accumulation of Allergan stock between  
17 April 11 and April 21, 2014. During this window, PS Fund 1 increased its holdings to  
18 nearly 10% of Allergan's stock (almost 14 million shares) through additional deep-in-  
19 the-money OTC call options and OTC equity forwards on April 21, 2014.

20           80.     By April 21, 2014, PS Fund 1 had already acquired 9.7% percent of the  
21 outstanding Allergan stock – still without disclosing its ownership accumulation or  
22 Valeant's takeover intentions.<sup>2</sup>

23           81.     From the time these significant acquisitions began, Allergan's stock price  
24 increased from \$125.54 per share on February 25, 2014, to a closing price of \$163.65  
25 per share on April 22, 2014, the day of Valeant's announced proposal.

26 \_\_\_\_\_  
27 <sup>2</sup> On May 1, 2014, PS Fund 1 exercised American-style call options to purchase  
28 more than 24 million shares of Allergan common stock and paid the applicable forward  
purchase price to purchase over 3 million shares of Allergan common stock.

1 82. Thus, in order to profit from Valeant's material non-public information at  
2 the expense of Allergan's stockholders, the Pershing Defendants accumulated shares  
3 rapidly at costs well below the post-announcement share price. The Allergan Stock  
4 Purchase Program was designed to foreclose the prospect that other bidders would  
5 come forward, given Valeant's substantial head start.

6 83. A review of trading activity in advance of Defendants' Schedule 13D  
7 filings on April 21, 2014, also evidences trading that is not explained by Pershing  
8 Square's own purchases – and perhaps suggests additional tipping by Valeant and  
9 Pershing Square. According to an April 22, 2014 Wall Street Journal article entitled  
10 "Flurry of Allergan Trading Preceded Offer":

11 Even after stripping out Mr. Ackman's buying, the volume of  
12 stock trading in Allergan during the 10-day period before  
13 Monday's announcement was 86% higher than its average  
14 over the previous year. . . . [S]uch a significant surge in  
15 trading suggests that information about the potential buyout  
16 bid could have leaked to other investors, analysts said.

14 **IV. Defendants' Statements and Actions Further Reveal the Fact That They**  
15 **Are Separate Persons**

16 84. The fact that Valeant and Pershing Square were not – and cannot – be  
17 considered the same "offering person" is consistent with Valeant's and Ackman's public  
18 statements. For example, in its amended Form S-4, Valeant expressly disclaims any  
19 affiliation with Pershing Square, in contending that its proposed acquisition of Allergan  
20 would not be a transaction with an "Interested Stockholder" under the terms of  
21 Allergan's certificate of incorporation. Under Article 15 of that certificate, an  
22 affirmative vote of at least two-thirds of "disinterested shares" is required for the  
23 approval of a transaction between the Company and "any other corporation or any of  
24 its affiliates that individually or in the aggregate are directly or indirectly the beneficial  
25 owners of 5% or more of the outstanding voting shares of the Company." In the  
26 amended Form S-4, Valeant has taken the position that, because Valeant itself owns  
27 only 100 shares, and because in Valeant's view it cannot be said to be the "owner" of  
28 the shares of Allergan common stock held by PS Fund 1, a merger between Valeant and

1 Allergan would not be a “Business Combination” with an “Interested Stockholder.”  
2 Although incorrect for purposes of Article 15, Valeant itself has acknowledged that  
3 Valeant is and always has been the offering person, while PS Fund 1 is a separate,  
4 unaffiliated entity.

5 85. After Valeant and Pershing Square entered into the Relationship  
6 Agreement, and even after they publicly announced that agreement on April 22, 2014,  
7 Ackman repeatedly represented that he was just another Allergan stockholder looking to  
8 maximize value, whether through a transaction with Valeant or some other company.

9 86. In a May 5, 2014 letter to Allergan’s Lead Independent Director (Michael  
10 Gallagher), Ackman wrote:

11 (a) “As Allergan’s largest shareholder with 9.7% of the common stock,  
12 we look forward to working with you and the rest of the board to maximize value  
13 for all Allergan shareholders”; and

14 (b) “we are supportive of Allergan making the best possible deal with  
15 Valeant or identifying a superior transaction with another company.”

16 87. In a May 12, 2014 letter to Allergan’s Associate General Counsel and  
17 Secretary (Matthew Maletta), Ackman stated the purpose of the demand under  
18 Delaware General Corporation Law Section 220 for the inspection of Allergan’s books  
19 and records:

20 The purpose of this demand is to enable the Requesting  
21 Stockholder to communicate with fellow stockholders of the  
22 Company on matters relating to their mutual interest as  
23 stockholders... including, without limitation, the solicitation  
24 of views regarding Valeant Pharmaceuticals International  
25 Inc.’s proposal to acquire the Company.

26 In the letter, Ackman correctly referenced the proposal and the transaction as Valeant’s  
27 – not Pershing Square’s – a characterization consistent with Allergan’s public rejections  
28 of the offer and inconsistent with any attempt to cast Pershing Square and Valeant as a  
single “person.”

1           88. On May 13, 2014, Valeant and Pershing Square filed a Preliminary Proxy  
2 Statement with the SEC to conduct a non-binding “shareholder referendum,”  
3 purporting to direct the Allergan board to “promptly engage in good faith discussions  
4 with Valeant regarding Valeant’s offer to merge with the Company” – but without  
5 precluding the Allergan board from engaging in discussions with other parties that  
6 might offer higher value. This Proxy Statement defines Pershing Square as the  
7 Requesting Shareholder, and requests negotiations with Valeant regarding Valeant’s  
8 offer.

9           89. In a May 19, 2014 letter to Mr. Gallagher, Ackman wrote:

10           (a) “I find it inappropriate that Allergan’s lead independent director  
11 was unwilling to speak to a shareholder without management present”;

12           (b) “Mr. Pyott has also apparently criticized Pershing Square, explaining  
13 that our views should not be considered, as we are somehow conflicted because  
14 of our relationship with Valeant. To set the record straight, Pershing Square is  
15 Allergan’s largest shareholder with nearly 10% of the common stock of the  
16 company . . . . [and is] interested only in maximizing the value of [its] investment  
17 in Allergan”; and

18           (c) “Based on conversations we have had with other Allergan  
19 shareholders . . . , we believe that the majority of Allergan shareholders are  
20 interested in a potential business combination with Valeant . . . . [I]t is rare that a  
21 shareholder is willing to candidly share its views with a Chairman/CEO who will  
22 likely lose his job as a result of a proposed transaction[.]”

23           90. In a phone conversation with Mr. Pyott on May 13, 2014, Ackman again  
24 represented that he was a concerned stockholder, and did not claim to be a bidder with  
25 Valeant. Several times during the call Ackman referred to himself as “[Allergan’s]  
26 largest shareholder.” During the call, Ackman stated:

27           We have a \$5 billion investment in Allergan, we’re your  
28           largest shareholder, we have zero investment in Valeant, we  
              have no side arrangements with Valeant, we have no other

1 agreements with Valeant, other than the agreement that  
2 you've seen which says if there's a better value to be had in  
3 alternatives [*sic*] transaction to Valeant, and we have the right  
4 to accept that value . . . . The only agenda we have is to  
5 maximize the value of our investment in Allergan.

6 91. As recently as July 16, 2014, Ackman wrote in a letter to Allergan's board  
7 that, if allegations of Valeant's "malfeasance" are true, "then as Allergan's largest  
8 shareholder with a \$5 billion investment we would of course strongly oppose a Valeant  
9 transaction." These are neither the words nor the actions of an actual bidder.

10 92. Ackman and his hedge fund cannot be shielded from liability by calling  
11 themselves "co-bidders;" they were *other persons* who were prohibited from trading under  
12 Rule 14e-3(a).

13 93. At its core, Valeant and Pershing Square's misconduct constitutes an  
14 impermissible warehousing scheme. Valeant leaked its non-public tender offer  
15 intentions to Pershing Square, prompting Pershing Square to purchase 9.7% of Allergan  
16 stock. Not only did the leaked information procure significant profits for Pershing  
17 Square, it also ensured a presumptively "friendly" stake for Valeant once Valeant  
18 launched its tender offer.

## 19 **V. Valeant and the Pershing Defendants Announce Valeant's Takeover Plans**

20 94. Section 13(d) requires any entity that directly or indirectly acquires  
21 beneficial ownership of more than 5% of a registered class of an issuer's equity  
22 securities to file a Schedule 13D disclosure statement with the SEC within ten days of  
23 the date the filer crosses the 5% threshold. The Schedule 13D must contain the  
24 information specified in Section 13(d) and the SEC rules promulgated thereunder,  
25 including, among other things: the number of shares beneficially owned; the source and  
26 amount of the funds to be used in the acquisition; information as to any contracts,  
27 agreements, or understandings with any entity relating to the securities of the issuer; and  
28 the beneficial owner's plans for the issuer's business and governance. Section 13(d) and  
Schedule 13D function together as key elements of the Williams Act, and provide public  
stockholders with early warning of a potential takeover.

1           95. On April 21, 2014, the last possible day permissible under the 10-day  
2 period prescribed by Section 13(d) of the Exchange Act, Valeant and Pershing Square  
3 shocked the market when they each filed a Schedule 13D purporting to disclose the  
4 acquisition of Allergan stock and Valeant's longstanding plan to take over Allergan.  
5 However, these filings were deficient in that they did not include important details  
6 surrounding the manner in which Pershing Square accomplished the trades.

7           96. Valeant and the Pershing Defendants did not adequately disclose the  
8 nature of their ownership because they failed to attach and adequately describe the  
9 underlying contracts for the OTC call options and OTC equity futures through which  
10 Pershing Square acquired its beneficial ownership.

11           97. Defendants also failed to attach and adequately describe the confidentiality  
12 agreement executed by Valeant and Pershing Square on February 9, 2014, and the  
13 February 20, 2014 amendment thereto.

14           98. The extent of Defendants' disclosure deficiencies cannot be determined  
15 unless and until the underlying contracts are disclosed.

16           99. In its April 21, 2014 Schedule 13D, Pershing Square stated that it  
17 "intend[s] to engage in discussions" with Allergan's board. Similarly, in its April 21,  
18 2014 Schedule 13D, Valeant stated that it "currently intends to propose a merger" in  
19 which Allergan's stockholders would receive "a combination of cash and Valeant  
20 common shares," and that it expected the cash component to total approximately \$15  
21 billion. These characterizations of Defendants' intentions at that time are belied by later  
22 admissions. On June 17, 2014, Mr. Pearson admitted that a tender offer was part of  
23 Valeant's ultimate plan, stating: "On April 22nd, we announced our offer for Allergan.  
24 *We suspected at the time it would ultimately have to go directly to Allergan*  
25 *shareholders. We were correct.*"

26           100. Thus, having already taken substantial steps toward a tender offer at that  
27 time, Valeant's Schedule 13D was also deficient in that it did not accurately convey its  
28 plans and proposals for Allergan pursuant to the requirements of Item 4.

1           101. In an apparent effort to remedy its deficient initial filing, Pershing Square  
2 filed a Schedule 13D/A amending the April 21, 2014 disclosure on July 17, 2014.  
3 Exhibits 99.14 and 99.15 to the Schedule 13D/A consisted of previously undisclosed  
4 share call option and share forward master confirmations.

5           102. But Pershing Square again failed to disclose the actual agreements at issue.  
6 While the master confirmations provide the generic terms of the transactions, they do  
7 not include actual trade details which would contain the financial terms of each option.

8           103. By merely filing the form of agreement, but not the actual agreement,  
9 Pershing Square has again violated Item 7 of Schedule 13D's requirement that the filing  
10 person attach as exhibits "copies of all written agreements . . . relating to . . . the transfer  
11 or voting of the securities . . . [or] options, puts, [or] calls . . . as disclosed in Item 6."

12           104. Thus, Pershing Square and Valeant's Schedule 13D disclosures remain  
13 deficient due to the failure to adequately describe and attach: (a) the February 9, 2014  
14 confidentiality agreement between Pershing Square and Valeant; and (b) the underlying  
15 call option and equity futures stock purchase contracts. Valeant's Schedule 13D  
16 disclosure is also false and misleading for failing accurately to describe the purpose of  
17 the transactions and its plans in Item 4.

18           105. Pershing Square and Valeant are each sophisticated investors with  
19 sophisticated legal counsel, and their failure to adequately describe and attach  
20 documents required to be included in Schedule 13D suggests an effort to conceal their  
21 true intentions. These contracts, and an understanding of who was involved and what  
22 specific terms were agreed to, are essential in order to understand what other steps  
23 Pershing Square and Valeant took toward a Valeant tender offer, the identity of the  
24 entities helping Pershing Square and Valeant, the consideration these entities received,  
25 and the role of these entities in the heretofore unexplained additional purchases of  
26 Allergan shares.

1 **VI. Valeant Launches an Aggressive Takeover Campaign**

2 106. On April 22, 2014, Valeant delivered to Allergan a formal, unsolicited  
3 proposal and draft merger agreement at \$48.30 in cash and .83 of Valeant stock per  
4 Allergan share.

5 107. While Valeant initially tried to characterize its takeover as a “merger” in an  
6 effort to skirt the federal securities regulations triggered by a tender offer, its plan from  
7 the very beginning was to launch a tender offer. Indeed, Valeant’s aggressive and  
8 hostile tactics from the outset – as detailed herein – constituted a *de facto* tender offer in  
9 everything but the actual name. When Allergan did not immediately agree to negotiate  
10 with Defendants, Valeant sought, with Ackman’s help, to persuade stockholders that a  
11 deal was “inevitable,” as stated in Valeant’s June 3, 2014 Rule 425 filing.

12 108. Meanwhile, Ackman openly bragged about how he was able to make this  
13 unprecedented gain without, in his view, technically violating the insider trading rules.  
14 At a lunch hosted by Valeant, Ackman and Mr. Pearson “acknowledged that there may  
15 be some questions around how Pershing Square/Bill Ackman accumulated AGN shares  
16 ahead of the takeout offer being announced publicly, but they stressed everything they  
17 have done is completely legal.”<sup>3</sup>

18 109. Under the facade of pursuing a negotiated merger, Valeant launched an  
19 aggressive campaign, using the classic playbook for hostile tender offers: an offensive  
20 public relations and media blitz, pre-packaged investor presentations trumpeting the  
21 “synergies” of a combined company and the shortcomings of Allergan as a stand-alone  
22 company, concerted stockholder outreach, and direct communications with Allergan  
23 employees and customers.

24 110. Valeant undertook an aggressive public relations campaign with financial  
25 analysts and the media. In all of its communications, Valeant made clear that it

26  
27 <sup>3</sup> Credit Suisse, ALLERGAN INC.: TAKEAWAYS FROM VRX LUNCH: MANAGEMENT  
28 PROVIDES COMPELLING POINTS FOR AGN TAKEOUT (Apr. 27, 2014).

1 intended to rely on its continued “slash and burn” strategy by making deep cost cuts at  
2 Allergan’s headquarters, particularly in the area of research and development.

3 111. On April 28, 2014, Valeant hosted an analyst event to discuss its proposal  
4 to Allergan. At the event, Valeant emphasized that the likelihood of another bidder  
5 emerging was low, and that Allergan should not “take more than about 30 days” to  
6 evaluate.<sup>4</sup>

7 112. On a conference call with equity analysts on Thursday, May 8, 2014, Mr.  
8 Pearson said that he and Valeant CFO Howard Schiller had been traveling across the  
9 United States to meet with Allergan’s top stockholders, as well as Valeant’s top  
10 stockholders. According to a May 8, 2014 article in the Wall Street Journal by Joseph  
11 Walker, Mr. Pearson stated: “We have been in New York, Baltimore, Boston, Los  
12 Angeles, San Francisco, Vancouver and South Florida. So far, all of the feedback has  
13 been overwhelmingly positive.”

14 113. Contrary to Mr. Pearson’s statements, however, many Allergan  
15 stockholders, including Dan Davidowitz, Chief Investment Officer of Polen Capital  
16 Management LLC, expressed disapproval of Valeant’s bid for Allergan. According to a  
17 May 6, 2014 article in the L.A. Times by Stuart Pfeifer, Allergan’s co-founder and  
18 former Chairman, Gavin S. Herbert, urged its directors to reject a buyout offer saying  
19 that Valeant’s slashing the research and development budget would “really kill this  
20 company . . . I am very much against that.”

21 114. On May 8, 2014, according to the Wall Street Journal, Schiller warned of  
22 more aggressive measures, explaining that Valeant and Pershing Square would request a  
23 stockholder list from Allergan in order to “commence a shareholder referendum that  
24 will determine that the Allergan shareholders are supportive of Allergan’s board  
25 engaging in negotiations with us in parallel with other efforts they may be undertaking.”  
26 Schiller also made clear that Valeant and Pershing Square were willing to bypass the

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27 <sup>4</sup> *Id.*  
28

1 Allergan board entirely, stating that “if necessary, we will also pursue holding a special  
2 meeting to remove some or all of the Allergan board members.”

3 115. Meanwhile, according to a May 9, 2014 article in the Wall Street Journal by  
4 Rob Copeland, Ackman bragged that he was already up about 38% on his Allergan  
5 stake, less than one month after the unusual deal became public. The gains add up to  
6 almost \$1 billion in paper profits.

7 116. Throughout April and May 2014, Valeant also undertook to communicate  
8 directly with Allergan’s customers and employees. Among other tactics, Valeant’s  
9 management and other personnel:

10 (a) Began representing to Allergan’s customers that the acquisition was  
11 a “done deal” and “we own them”;

12 (b) Offered rebates on both Allergan and Valeant purchases;

13 (c) Contacted Allergan sales representatives and welcomed them to  
14 Valeant;

15 (d) Visited Allergan customers, announcing that they were Allergan’s  
16 new sales representatives;

17 (e) Began telling Allergan customers that Allergan’s SkinMedica line  
18 was going to be divested; and

19 (f) Sent a letter to its customers discussing its merger proposal and  
20 plans for the joint company going forward.

21 **VII. Valeant Formally Launches a Proxy Contest and Hostile Exchange Offer**

22 117. Two weeks after Allergan’s board of directors “unanimously determined  
23 that Valeant’s unsolicited proposal substantially undervalues Allergan,” on May 28, 2014  
24 Valeant increased its offer by \$10 cash per share.

25 118. Before the Allergan board had the chance to consider the revised offer,  
26 Valeant raised its offer again on May 30, 2014, by increasing the cash portion of its bid  
27 to \$72.00 per share (the “Revised Proposal”).  
28

1 119. As part of the Revised Proposal, Pershing Square agreed to forego all cash  
2 and accept 100% of its consideration in Valeant stock using an exchange ratio based on  
3 the previous day's closing stock prices of Allergan and Valeant. Pershing Square would  
4 receive \$20.75 per share less consideration than other Allergan stockholders, providing  
5 substantially more value and cash for other Allergan stockholders.<sup>5</sup> Pershing Square  
6 was again stepping in to help finance a deal that Valeant could not afford.

7 120. On June 2, 2014, Pershing Square filed a preliminary proxy statement with  
8 the SEC, contemplating the solicitation of proxies to call the Special Meeting. At the  
9 meeting, Pershing Square would (a) propose removing and replacing six unspecified  
10 directors from the current Allergan board; (b) propose an amendment to Allergan's  
11 bylaw provisions regarding special stockholder meetings; and (c) request that the  
12 Allergan board promptly engage in discussions with Valeant. In a presentation to  
13 investors that day, Valeant abandoned the pretense of "negotiations" with the Allergan  
14 board and reaffirmed that it was "preparing to launch an exchange offer."

15 121. Allergan's board unanimously rejected the Revised Proposal on June 10,  
16 2014, reiterating its belief that the increased proposal still "substantially undervalues  
17 Allergan, creates significant risks and uncertainties for Allergan's stockholders and does  
18 not reflect the Company's financial strength, future revenue and earnings growth or  
19 industry-leading R&D."

20 122. On June 18, 2014, Valeant filed a Registration Statement on Form S-4 and  
21 Schedule TO with the SEC, finally commencing the tender offer that it had been  
22 planning for several months.

23 123. On July 11, 2014, Valeant and Pershing Square filed a definitive proxy  
24 statement with the SEC, soliciting proxies to call the Special Meeting.

25  
26 <sup>5</sup> Pershing Square was able to make this election because it had already obtained a  
27 paper profit of approximately \$1 billion through its rapid accumulation program while  
28 in possession of material, non-public information. Pershing Square is effectively using  
those ill-gotten gains to help finance Valeant's takeover effort.

## CLASS ACTION ALLEGATIONS

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124. Plaintiff brings this action as a class action on behalf of all persons and entities who sold Allergan stock during the Class Period (between February 25, 2014 and April 21, 2014). Excluded from the Class are defendants and their families, the officers and directors and affiliates of defendants, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which defendants have or had a controlling interest.

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125. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are thousands of members in the proposed Class. As of February 14, 2014, Allergan had 4,420 shareholders of record and in excess of 300 million shares of common stock outstanding, and Allergan's average daily trading volume during the Class Period was approximately 3 million shares. Record owners and other members of the Class may be identified from records maintained by Allergan or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

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126. Plaintiff's claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by Defendants' misconduct in violation of federal law that is set forth in this complaint.

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127. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

24  
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128. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- 27  
28  
(a) whether the Pershing Defendants violated the Williams Act and its attendant regulations by acquiring shares of Allergan while in possession of

1 material non-public information relating to Valeant’s intent to make a tender  
2 offer for Allergan securities;

3 (b) whether Valeant violated the Williams Act and its attendant  
4 regulations by communicating material, non-public information relating to  
5 Valeant’s intent to make a tender offer for Allergan securities to Pershing Square;

6 (c) whether Defendants took substantial steps during the Class Period  
7 to commence a tender offer for Allergan securities;

8 (d) whether each Defendant constitutes a co-offering person; and

9 (e) whether Class members have sustained damages and, if so, the  
10 proper measure of such damages.

11 129. A class action is superior to all other available methods for the fair and  
12 efficient adjudication of this controversy since joinder of all member is impracticable.  
13 Furthermore, the expense and burden of individual litigation makes it impracticable for  
14 members of the Class to individually seek redress for the wrongs done to them. There  
15 will be no difficulty in the management of this action as a class action.

16 **CAUSES OF ACTION**

17 **Count I**  
18 **Violation of Section 14(e) of the Exchange Act and the Rules**  
19 **Promulgated Thereunder**  
20 **Against All Defendants**

21 130. Plaintiff incorporates by reference and realleges each and every allegation  
22 contained above, as though fully set forth below.

23 131. Defendants have engaged in fraudulent, deceptive, and manipulative acts  
24 in connection with taking substantial steps toward a tender offer, including trading on  
25 material non-public information.

26 132. Rule 14e-3(a) provides that once an offering person has “taken a  
27 substantial step or steps to commence a tender offer,” then “it shall constitute a  
28 fraudulent, deceptive or manipulative act or practice” for any person who is in

1 possession of material non-public information relating to the tender offer (other than  
2 the offering person) to acquire shares in the target.

3 133. Rule 14e-3(d) provides that under such circumstances, it shall be unlawful  
4 for an offering person “to communicate material, non-public information relating to a  
5 tender offer to any other person under circumstances in which it is reasonably  
6 foreseeable that such communication is likely to result in a violation of this section.”

7 134. The purpose of the rule is to prevent parties with non-public information  
8 that a tender offer is going to be commenced at a premium price from transacting with  
9 investors who do not have such information – unless they disclose that information  
10 first.

11 135. After Valeant took substantial steps to commence a tender offer for  
12 Allergan shares, the Pershing Defendants acquired shares of Allergan stock while in  
13 possession of material non-public information acquired directly from Valeant relating to  
14 that tender offer. In light of the Relationship Agreement, it was reasonably foreseeable  
15 that Valeant’s communication would result in a violation of Rule 14e-3. Valeant knew  
16 and intended that the Pershing Defendants would trade on the material, non-public  
17 information by buying shares in Allergan and otherwise taking steps to acquire the right  
18 to purchase stock in Allergan.

19 136. The Pershing Defendants knew or had reason to know that the  
20 information was non-public, and that the information was provided by Valeant, the  
21 bidder.

22 137. Section 14(e) provides, in relevant part: “It shall be unlawful for any  
23 person to make any untrue statement of a material fact or omit to state any material fact  
24 necessary in order to make the statements made, in the light of the circumstances under  
25 which they are made, not misleading, or to engage in any fraudulent, deceptive, or  
26 manipulative acts or practices, in connection with any tender offer.”

27 138. Valeant’s tender offer materials violated Section 14(e) because they  
28 omitted material facts regarding Valeant and Pershing Square’s relationship and

1 intentions with regard to the proposed transaction; the certainty of the proposed  
2 transaction; purported cost synergies and other financial issues; and Robert Ingram's  
3 service on the Allergan and Valeant boards.

4 139. The Pershing Defendants further violated Section 14(e) by failing to  
5 disclose material information regarding Valeant's anticipated tender offer, and the  
6 substantial steps that Valeant had taken toward such tender offer, before purchasing  
7 Allergan stock.

8 140. Defendants had the motive and opportunity to commit fraud. Valeant was  
9 motivated to facilitate Pershing Square's purchase of a large stake in Allergan, and  
10 thereby ensure critical financing and friendly backing in support of its hostile takeover  
11 attempt. Pershing Square was motivated to purchase its stake in Allergan by trading  
12 with Allergan stockholders on the basis of material, non-public information, and  
13 thereby reap the enormous financial gains accruing to it from this information  
14 imbalance. Both Defendants made false and misleading statements to the market in an  
15 attempt to hide the details of their conduct.

16 141. Defendants' fraudulent, deceptive, and manipulative acts violated their  
17 respective obligations under Section 14(e) of the Williams Act and the rules adopted  
18 thereunder, including, at minimum: 14e-3(a) (prohibiting the Pershing Defendants from  
19 trading on non-public material information in connection with a tender offer); and 14e-  
20 3(d) (prohibiting Valeant from communicating non-public material information in  
21 connection with a tender offer).

22 142. Defendants' violations of Section 14(e) of the Williams Act, and the rules  
23 adopted thereunder, have caused Class members substantial monetary damages.

24 **Count II**  
25 **Violation of § 20A of the Exchange Act**  
26 **Against the Pershing Defendants**

27 143. Plaintiff incorporates by reference and realleges each and every allegation  
28 contained above, as though fully set forth below.

1 144. As detailed herein, the Pershing Defendants were in possession of  
2 material, non-public information concerning Allergan, and traded on the basis of that  
3 information to obtain profits of approximately \$2.5 billion.

4 145. The Pershing Defendants' trades were made contemporaneously with the  
5 trades of Plaintiff and other Class members.

6 146. Plaintiff and the Class suffered damages as a result of these trades because  
7 Plaintiff and the Class did not have the information required to be disclosed under Rule  
8 14e-3 and therefore sold for an unfair price and did not receive the benefit of the  
9 premium that followed once the Pershing Defendants' material non-public information  
10 was released to the market.

#### 11 PRAYER FOR RELIEF

12 WHEREFORE, Plaintiff prays for judgment in his favor and against all  
13 defendants as follows:

14 A. Determining that this action is a proper class action, certifying a class  
15 under Rule 23 of the Federal Rules of Civil Procedure, and appointing Plaintiff as a class  
16 representative and Plaintiff's counsel as lead counsel for the class.

17 B. Declaring that the Pershing Defendants violated the Williams Act and its  
18 attendant regulations by acquiring shares of Allergan while in possession of material  
19 non-public information relating to Valeant's tender offer.

20 C. Declaring that Valeant violated the Williams Act and its attendant  
21 regulations by communicating material, non-public information relating to Valeant's  
22 tender offer to Pershing Square.

23 D. Awarding damages to Plaintiff and the Class under the Exchange Act,  
24 together with interest.

25 E. Awarding Plaintiff his costs and disbursements in this action, including  
26 reasonable attorneys' and experts' fees.

27 F. Granting Plaintiff such other and further relief as the Court may deem just  
28 and proper.