

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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June 29, 2021

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

We strongly urge the Department of Justice (DOJ) to vote against the plan of reorganization Purdue Pharma has proposed as part of its Chapter 11 bankruptcy. If approved, Purdue's plan would grant legal immunity to members of the Sackler family over the objection of two dozen state attorneys general and in direct contradiction to DOJ's prior position on nonconsensual non-debtor releases.

Under Purdue's proposed plan of reorganization, members of the Sackler family would contribute \$4.2 billion—less than half of the fortune they amassed from the company—to resolve all legal claims related to their role in the opioid epidemic and obtain immunity from current and future opioid-related lawsuits.¹

Attorneys general from two dozen states and the District of Columbia have expressed their opposition to non-debtor releases for members of the Sackler family, explaining that Purdue's plan "seeks to impose unprecedented releases of sovereign State police power claims" and would "result in a non-consensual settlement of these state law claims against the Sackler Families being imposed on States without their consent."²

¹ Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors (Mar. 15, 2021), *Purdue Pharma, L.P., et al.*, S.D.N.Y. (No. 19-23649); Disclosure Statement for Chapter 11 Plan for Purdue Pharma L.P. and Its Affiliated Debtors (Mar. 15, 2021), *Purdue Pharma, L.P., et al.*, S.D.N.Y. (No. 19-23649); Committee on Oversight and Reform, *Press Release: Committee Releases Documents Showing Sackler Family Wealth Totals \$11 Billion* (Apr. 20, 2021) (online at <https://oversight.house.gov/news/press-releases/committee-releases-documents-showing-sackler-family-wealth-totals-11-billion>).

² The Ad Hoc Group of Non-Consenting States' Objection to the Debtors' Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices, and Notice Procedures in Connection Therewith, and (IV) Certain Dates With Respect Thereto (Apr. 29, 2021), *Purdue Pharma, L.P., et al.*, S.D.N.Y. (No. 19-23649).

Despite these objections, a bankruptcy judge approved Purdue's disclosure statement on June 2, 2021, allowing the company to begin soliciting votes for its plan of reorganization from creditors—including the federal government—with a deadline of July 14, 2021.³

DOJ's support for the terms of Purdue's bankruptcy would be in direct conflict with its prior position that the nonconsensual release of government claims against non-debtors—such as those brought by state attorneys general against the Sacklers—is never lawful in bankruptcy. In an amicus brief filed in *Lynch v. Mascini Holdings, Ltd. (In re Kirwan Offices S.a.R.L.)*, DOJ stated:

Moreover, the government's view is that, even assuming that releases may be appropriate in certain circumstances, no such releases should ever apply to the government, as its interests are distinct from those of ordinary creditors or other outsiders who may have claims against participants in the bankruptcy process. For example, no bankruptcy court should release non-debtors from their obligations under criminal laws, tax laws, environmental laws, or other public health and safety laws that may arise in relation to their work on the bankruptcy.⁴

On June 8, 2021, the Committee on Oversight and Reform held a hearing to examine the role of the Sackler family in fueling the opioid epidemic and policies to promote accountability for their actions—including through the SACKLER Act, a bill to prohibit nonconsensual non-debtor releases for government claims.⁵ In a recorded statement submitted to the Committee, the career prosecutor who led the first federal investigation into Purdue that resulted in DOJ's 2007 settlement with the company warned that Purdue's ongoing bankruptcy proceedings may allow the Sacklers to once again evade responsibility by obtaining non-debtor releases, noting that "it would be a gross injustice to allow them to game a bankruptcy loophole to keep those profits."⁶

The federal government must not support the Sackler family's attempts to evade accountability for fueling a crisis that has claimed nearly half a million American lives.⁷ We strongly urge DOJ to uphold the federal government's established position regarding non-debtor releases and vote against any plan of reorganization that permits the Sacklers to shield themselves through the nonconsensual release of government claims.

³ *Sackler Family Empire Poised to Win Immunity from Opioid Lawsuits*, NPR (June 2, 2021) (online at www.npr.org/2021/06/02/1002085031/sackler-family-empire-poised-to-win-immunity-from-opioid-lawsuits).

⁴ Brief for the United States as Amicus Curiae (Oct. 7, 2019), *Lynch v. Mascini Holdings, Ltd. (In re Kirwan Offices S.a.R.L.)*, 2d Cir. (No. 18-3371).

⁵ H.R. 2096.

⁶ Committee on Oversight and Reform, Recorded Statement from Rick Mountcastle, *Hearing on The SACKLER Act and Other Policies to Promote Accountability for the Sackler Family's Role in the Opioid Epidemic* (June 8, 2021).

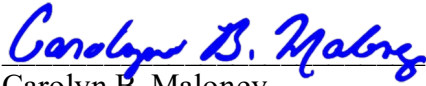
⁷ Centers for Disease Control and Prevention, *Understanding the Epidemic* (Mar. 19, 2020) (online at www.cdc.gov/drugoverdose/epidemic/index.html); Centers for Disease Control and Prevention, *Trends and Geographic Patterns in Drug and Synthetic Opioid Overdose Deaths—United States, 2013–2019* (Feb. 12, 2021) (online at www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7006a4-H.pdf).

The Honorable Merrick Garland

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If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman



Mark DeSaulnier
Member of Congress

cc: The Honorable James Comer, Ranking Member