

# Former AmerisourceBergen Executive Blows the Whistle on Massive Drug Overfill Laundering Scheme, Leading to \$885 Million Combined Civil and Criminal Settlement

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WASHINGTON, Oct. 1, 2018 /PRNewswire/ -- Whistleblower Law Collaborative and Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. report Michael Mullen, the former chief operating officer of a subsidiary of AmerisourceBergen Corporation (NYSE: ABC), played an instrumental role in a landmark \$625 million civil settlement announced today between his former company and federal and state prosecutors over false claims submitted for unapproved and adulterated drugs, double-billing from exploiting overfill, and kickbacks to physicians. His whistleblowing was also critical in the government's criminal investigation of the company, which led to its conviction for violations of the Food Drug and Cosmetic Act and criminal fines totaling \$260 million. The combined \$885 million settlement is one of the largest pharmaceutical settlements in history and includes a Corporate Integrity Agreement between AmerisourceBergen and the Office of Inspector General of the Department of Health and Human Services.

"Mr. Mullen courageously spoke up internally about compliance issues, which cost him his job, and then alerted law enforcement of his concerns after vetting his claims with whistleblower attorneys," said Mr. Mullen's attorney, Bob Thomas. "He did the right thing, and we are immensely proud of him."

At issue were drugs used to treat cancer or the side effects of cancer treatments. As set forth in the government's civil settlement papers and criminal charging documents, the defendants illegally harvested overfill by repackaging manufacturer-produced vials into pre-filled syringes at an unlicensed facility operating outside the regulatory oversight of the U.S. Food and Drug Administration. The defendants then offered the syringes to physicians at a discount, and patients unwittingly received drugs that had been manipulated in ways resulting in adulteration and contamination.

"Cancer patients have the right to be treated using drugs that are not adulterated or contaminated, and drug wholesalers have a duty to ensure the safety and security of the drugs they distribute," stated Mr. Mullen. "The unlicensed facility is now closed, and I am hopeful our efforts have made a positive difference in patients' lives."

Mr. Mullen provided the first-hand, operational knowledge necessary to detect AmerisourceBergen's violations of federal and state laws. His amended *qui tam* complaint, unsealed today in the United States District Court for the Eastern District of New York, details AmerisourceBergen's overfill laundering scheme and the executives who knew about the oncology business model and regulatory issues, including the former and current AmerisourceBergen CEOs.

"When presented with compliance problems, AmerisourceBergen swept them under the rug to maximize profits," stated Mr. Mullen's attorney, Joseph Hall. "The settlement and criminal conviction would not have come to fruition without Mr. Mullen risking his career, livelihood, and reputation to ensure these practices were stopped. We are thankful Mr. Mullen entrusted us with this case."

The whistleblowers are set to receive approximately \$99 million in a whistleblower award. Mr. Mullen will be sharing the award with three other whistleblowers who later corroborated his allegations in complaints filed after his.

Mr. Mullen is represented by Bob Thomas and Suzanne Durrell of the Whistleblower Law Collaborative, Joseph Hall, Silvija Strikis, and Andrew Shen of Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C., and Neil Cartusciello of Cartusciello & Kozachek LLC.

"AmerisourceBergen no longer produces millions of pre-filled syringes because of the outstanding work of this team and the government," stated Mr. Mullen. "I would like to thank the United States Attorney's Office for the Eastern District of New York, particularly Assistant U.S. Attorneys Deborah Zwany and Matthew Silverman, the Civil Frauds Section of the Department of Justice, particularly Sanjay Bhambhani, the State Medicaid Fraud Control Units, and the law enforcement agents."

The drugs used in the pre-filled syringes program were Procrit®, Aloxi®, Kytril®, generic versions of granisetron injection, Anzemet® and Neupogen®.

**Amended complaint and Department of Justice criminal and civil documents:**

<https://www.kellogghansen.com/f-19.html>

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