

EXHIBIT 16



State of California • Arnold Schwarzenegger, Governor
State and Consumer Services Agency

DEPARTMENT OF GENERAL SERVICES
Office of Legal Services

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March 16, 2007

Glenn G. Johnson, M.D.
Maxor National Pharmacy Services Corp.
Maxor California Prison Receiver Project Manager
428 J Street, Suite 610
Sacramento, CA 95814

Re: Confidentiality of Contracts Provided to Maxor

Dear Dr. Johnson:

At the meeting on March 14, 2007, issues were raised regarding the ability of Maxor National Pharmacy Services Corporation (Maxor) to disclose confidential information to the Heinz Foundation. Below is a chronology of events relating to this item and the Department of General Services' (DGS) efforts to facilitate Maxor's pursuit of its project.

On May 10, 2006, prior to conducting its audit, Maxor agreed to abide by the terms of the Nondisclosure and Confidentiality Agreement with respect to the contracts and information the State provided to it with respect to the pharmaceutical contracts. Prior to signing this agreement, Maxor was made aware of the injunction against the State from releasing certain portions of the Roche contract and negotiated the release of that information with Roche's attorneys. (Exh. A, B, and C). As a result of this agreement, Maxor was provided with an unredacted copy of the Roche contract. (Exh. D).

On or about February 8, 2007, the DGS Pharmaceutical Program Consultant, Greg Doe, initiated discussion with Maxor's Rick Pollard regarding the Heinz Foundation project mentioned by Mr. Hagar at a joint meeting on February 7, 2007. In an email, Mr. Doe requested information concerning what Maxor was proposing to release to the Heinz Foundation, and if there was a written proposal, so that if there were any confidentiality issues to be resolved, that process could begin. (Exh. E). On February 9, 2007, Mr. Doe received an email regarding aggregate pricing, but the DGS had no information about the Heinz Foundation or what they were going to do with the data. (Exh. F).

On February 13, 2007, Mr. Doe requested the level of information proposed to be released, such as individual pricing and whether it may be possible to reverse engineer the actual cost of the drugs.¹ (Exh. G). Maxor discussed release of aggregate pricing,

¹ The DGS has previously asked Roche for permission to release aggregate pricing information in other contexts and Roche has denied such permission, instead offering that the requestor work with them directly to determine if a confidential sharing agreement might be arranged.

but the DGS still had no information about the Heinz Foundation, how they would be using the information, and whether they were subject to any confidentiality arrangement—information the vendors would presumably need to evaluate the request.

On February 14, 2007, DGS legal conferred with Maxor by phone in response to Maxor's request for status. The DGS again inquired if Maxor could provide a description of the project, so the DGS could in turn advise the vendors of the purpose and conditions for which their pricing information was being sought, and to enable the vendors to make an informed decision whether to grant such permission. Maxor indicated it was reluctant to prepare a white paper. The DGS suggested that an expeditious solution (already underway) would be for the DGS to put Maxor directly in contact with the vendors, so Maxor could explain its plans, and the vendors in turn could make any necessary inquiries and directly provide permissions to Maxor, if they agreed to the release. It was the DGS's understanding from that conversation that this arrangement was agreeable to Maxor and that Maxor stated it was simply waiting for the green light to make such contact with the vendors. (Exh. H).

Accordingly, on February 16, 2007, the DGS sent letters to AstraZeneca, Roche Laboratories, and Eli Lilly advising them Maxor would likely be contacting them. At the same time, the DGS provided Maxor the names, telephone numbers and email addresses of the three pharmaceutical companies to facilitate direct contact with these companies. (Exh. I).

As is evident from this chronology, the contractual information was shared with Maxor pursuant to the Nondisclosure and Confidentiality Agreement previously reached with the DGS. Further, Paragraph 8 of Maxor's own contract with the California Prison Health Care Receivership Corporation sets forth Maxor's agreement, in pertinent part, to maintain the confidentiality of:

"all financial, statistical, personal, technical and other data and information relating to State operations, which are designated confidential by the State and made available to carry out this Agreement, or which become available to Contractor in order to carry out this Agreement, shall be protected by Contractor from unauthorized use and disclosure." (Exh. J).

The information Maxor seeks to provide to the Heinz Foundation, for whatever purposes, is confidential information provided to Maxor consistent with its agreement that the information would remain confidential. (Exh. A and J). To the extent Maxor wants to release the confidential information to other third parties, the DGS has provided Maxor with the names of the companies to which the confidential information belongs, in order to facilitate Maxor's work.

The DGS believes that by providing the vendor contact information, Maxor could proceed directly to the companies that own the information. Maxor could directly describe to these companies the purpose and any conditions surrounding the proposed release—information which is not known to or under the direction or control of the DGS.

Since the DGS does not own the confidential information, the DGS has no ability to grant the permission Maxor seeks. The DGS provided Maxor the most expeditious way to obtain such permission by facilitating direct contact between Maxor and the vendors.

Concurrent with this letter, we will also be providing to Maxor, out of an abundance of caution, an additional set of true and correct copies of each of the pharmaceutical contracts requested by Maxor to continue ensuring Maxor has what it needs to conduct its work.

If you have any questions, please feel free to contact me at (916) 376-5115.

Sincerely,



KATHLEEN YATES
Senior Staff Counsel

cc: Robert Sillen, Receiver
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