



U.S. Department of Justice

Carmen M. Ortiz
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

December 8, 2010

Joshua S. Levy, Esq.
Ropes & Gray LLP
800 Boylston Street
Boston, MA 02199-3600

John C. Dodds, Esq.
Morgan Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103

Re: **Side Letter Agreement with Elan Corporation plc**

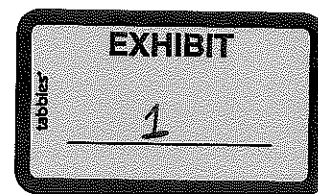
Dear Mr. Levy:

This letter ("Side Letter Agreement") will confirm that, in exchange for full performance of the Plea Agreement entered into by and among the United States of America, acting through the United States Attorney for the District of Massachusetts ("U.S. Attorney") and the Department of Justice (collectively referred to as "the United States") and your client, Elan Pharmaceuticals Inc. ("EPI") a copy of which plea agreement is attached hereto as Exhibit One, and in exchange for certain other promises made herein between and among the United States and your client, Elan Corporation plc (Elan Corporation plc and its subsidiaries collectively will be referred to as "Elan"), the United States and Elan hereby agree as follows:

1. **No Criminal Prosecution of Elan Corporation plc**

The United States hereby declines prosecution of Elan or any of its subsidiaries (other than EPI as set forth in the Information) for conduct by or attributable to Elan or any of its subsidiaries that:

- (a) falls within the scope of the Information to which EPI is pleading guilty; or
- (b) was the subject of the Elan investigation by the grand jury relating to the sales, promotion or marketing of Zonegran within the United States, including without limitation, direct or indirect offers or payment of remuneration to third parties within the United States to induce them to recommend, prescribe and/or purchase



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Zonegran within the United States; or

- (c) was known to the U.S. Attorney or the Office of Consumer Litigation of the Department of Justice prior to the date of this agreement, and which concerned the sales, promotion or marketing of Zonegran within the United States, including, without limitation, direct or indirect offer or payment of remuneration to third parties within the United States to induce them to recommend, prescribe and/or purchase Zonegran within the United States.

The United States does not decline criminal prosecution of Elan or any of Elan's related entities for any other conduct beyond that set forth above.

This Side Letter Agreement is not intended to and does not affect the criminal liability of any individual.

It is understood among the parties to this Side Letter Agreement that the United States' promise not to prosecute Elan is dependent upon and subject to EPI fulfilling its material obligations in the Plea Agreement (Exhibit One) and Elan fulfilling its material obligations herein and in the related Civil Settlement Agreement attached hereto as Exhibit Two. If EPI does not fulfill its material obligations in the Plea Agreement and/or Elan does not fulfill its material obligations herein and in the related Civil Settlement Agreement (Exhibit Two), Elan agrees to waive any defenses regarding pre-indictment delay, statute of limitations, or Speedy Trial Act with respect to any and all criminal charges that could have been timely brought or pursued as of the date of this letter, as set forth above, except that Elan retains any such defense that Elan specifically reserved in the parties' tolling agreement dated September 17, 2010, attached hereto as Exhibit Three.

2. Who Is Bound By Agreement

This letter agreement is binding upon the Attorney General of the United States, the United States Department of Justice, including all United States Attorneys, except that this agreement does not bind the Tax Division of the United States Department of Justice or the Internal Revenue Service of the United States Department of the Treasury. This side letter is binding on the Criminal Division of the United States Department of Justice, with the exception of any investigations of Elan Pharmaceuticals, Inc. and/or Elan Corporation plc that are or may be conducted in the future by the Fraud Section of the Criminal Division regarding possible violations of the Foreign Corrupt Practices Act and related offenses in connection with the sales and marketing of Zonegran to foreign customers. A copy of the letter to United States Attorney Carmen M. Ortiz on behalf of the Assistant Attorney General, Criminal Division, Department of Justice, authorizing this side letter agreement is attached as Exhibit Four.

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It is expressly understood that this Side Letter Agreement will have no effect on state or local prosecuting authorities, except as set forth in the settlement agreements between Elan and the various states.

3. Complete Agreement

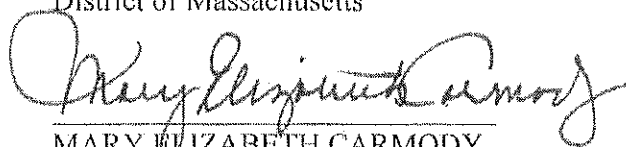
This Side Letter Agreement, the Plea Agreement with EPI, the Civil Settlement Agreement, the Corporate Integrity Agreement, the Escrow Agreement between Elan and the United States, and the Tolling Agreement between Elan and the United States Attorney dated September 17, 2010 (incorporating prior tolling agreements), are the complete and only agreements between the parties. No promises, agreements or conditions have been entered into other than those set forth or referred to in the above-identified documents. This agreement supersedes prior understandings, if any, of the parties, whether written or oral. This agreement cannot be modified other than in writing signed by the parties or on the record in court.

If this letter accurately reflects the agreement entered into between the United States and Elan and its Board of Directors has authorized you to enter into this agreement, please sign below and return the original of this letter to Assistant U.S. Attorney Mary Elizabeth Carmody.

Very truly yours,



CARMEN M. ORTIZ
United States Attorney
District of Massachusetts




MARY ELIZABETH CARMODY
ANTON P. GIEDIT
Assistant U.S. Attorneys
District of Massachusetts

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ACKNOWLEDGMENT OF AGREEMENT

The Board of Directors of Elan Corporation plc has authorized me to execute this Side Letter Agreement and the Civil Settlement Agreement on behalf of Elan Corporation plc. The Board of Directors has been advised of the contents of this Side Letter Agreement, the Civil Settlement Agreement, the Plea Agreement with EPI, the criminal information charging EPI, and the Corporate Integrity Agreement, and has discussed them fully with its counsel. I am further authorized to acknowledge on behalf of Elan that these documents fully set forth the agreements made between Elan and EPI and the United States, and that no additional promises or representations have been made to Elan and EPI by any officials of the United States in connection with the disposition of this matter, other than those set forth in those documents.

Dated: 12/13/10


JOHN B. MORIARTY, JR.
Senior Vice President and General Counsel
ELAN CORPORATION PLC

Dated: 12/15/10


JOSHUA S. LEVY, ESQ.
Ropes & Gray
Counsel for Elan Corporation plc

Dated:

JOHN C. DODDS, ESQ
Morgan Lewis & Bockius LLP
Counsel for Elan Corporation plc

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Dated: _____
JOHN B. MORIARTY, JR.
Senior Vice President and General Counsel
ELAN CORPORATION PLC

Dated: 12/13/10

JOSHUA S. LEVY, ESQ.
Ropes & Gray
Counsel for Elan Corporation plc

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JOHN C. DODDS, ESQ.
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