

July 26, 2021

The Honorable Judge Robert D. Drain
300 Quarropas Street
White Plains, NY 10601

Dear Judge Drain,

We write today in opposition to Purdue Pharma’s recent motion requesting \$34.7 million in employee bonuses, including \$5.4 million for its top executives, as part of Purdue’s Chapter 11 reorganization plan.¹ If approved, this offensive incentive plan could amount to an average bonus of \$67,000 per person for the approximately 500 bonus-eligible Purdue employees.² Meanwhile, Purdue’s proposed bankruptcy reorganization plan will cap payouts to individual claimants at \$48,000, but only in cases where an individual was prescribed OxyContin and died as a direct result. Most victims and their families will receive far less.³ At a time when individual victims and their families seek compensation for the devastating impact Purdue’s criminal actions have had on their lives,⁴ and as governments at the federal, state, and local level seek out and put forth as many resources as possible to fight back against an addiction crisis fueled by Purdue, allowing nearly \$35 million in funds to go towards executive and employee bonuses is contrary to public health and public policy, and runs counter to the company’s transition to a public benefit company (PBC). As such, we request the funds currently proposed for executive and employee incentive and retention plans instead be made available to victims, their families, and communities.

The Centers for Disease Control and Prevention (CDC) estimates that between 1999 and 2019, “[n]early 500,000 people died from overdoses involving any opioid, including prescription and illicit opioids.”⁵ CDC attributes the “first wave” of the opioid epidemic to “increased prescribing of opioids in the 1990s, with overdose deaths involving prescription opioids (natural and semi-synthetic opioids and methadone) increasing since at least 1999.”⁶ Worse, the opioid epidemic is far from over. According to preliminary statistics recently released by CDC and reported by the *New York Times*, there were 93,000 drug overdose deaths in the nation throughout 2020 – a 30 percent increase from the previous year, the largest single-year increase

¹ Ed Silverman, *Purdue wants to shower employees with nearly \$35 million in different kinds of bonuses*, Stat+ (Jul. 2, 2021), <https://www.statnews.com/pharmalot/2021/07/02/purdue-opioids-bonus-oxycontin/>.

² *Id.*

³ *Id.*

⁴ Geoff Mulvihill, *OxyContin maker Purdue Pharma pleads guilty in criminal case*, AP (Nov. 24, 2020), <https://apnews.com/article/purdue-pharma-opioid-crisis-guilty-plea-5704ad896e964222a011f053949e0cc0/>.

⁵ Center for Disease Control, *Opioids: Data Analysis & Resources*, Centers for Disease Control and Prevention (Mar. 10, 2021), <https://www.cdc.gov/opioids/data/analysis-resources.html>.

⁶ *Id.*

ever recorded, the most deaths from opioids ever, and the most overdose deaths in a single year.⁷ The “first wave” in the American opioid epidemic that Purdue contributed to has ushered in a tidal wave of substance use disorder, overdoses, and death that our nation still struggles to prevent.

Similarly, the economic toll of addiction has been overwhelming. A recent report estimated that in 2017 alone, the “economic cost of opioid use disorder (\$471 billion) and fatal opioid overdose (\$550 billion)...totaled \$1,021 billion,” or over \$1 trillion. These costs, while national, are largely borne by individual states and communities.⁸ Congress has intervened, appropriating tens of billions of dollars over the past several years to provide states with some of the funds needed to address the opioid epidemic, but more resources are clearly and desperately needed as overdose rates surge. And while Purdue’s bankruptcy proceedings have given the company the opportunity to determine set compensation for their wrongdoing on an individual level, \$48,000 per person lost to the opioid crisis will never be enough for their loved ones.

The opioid epidemic’s staggering human and economic toll on our country, greatly exacerbated by the crimes committed by Purdue, led individuals, states, and localities to take action and seek compensation for the lives lost or forever altered by Purdue’s actions, and to help fund the seemingly insurmountable public health effort to prevent and treat substance use disorder in our communities. Despite this effort to ensure as much money as possible goes to Purdue’s victims, their families, and communities affected by the opioid epidemic, and despite Purdue filing for bankruptcy, the company has continued to handsomely reward its top executives. For instance, Craig Landau, the company’s CEO, has already received “more than \$8.9 million” in payouts since the company filed for bankruptcy.⁹ In total, top executives at the company have received over \$32 million since the company filed for bankruptcy.¹⁰

The latest request for over \$34.7 million in additional bonuses, including \$2.1 million for Landau and \$5.4 million in total for Purdue’s top five executives¹¹ is offensive to victims and their families. While employee retention can be an important aspect of bankruptcy reorganization plans, Purdue has pled guilty to multiple federal crimes and is facing thousands of lawsuits, including those from states, localities, and individual claimants, for tens of billions of dollars. Furthermore, the bonus request is completely untenable with the company’s plan to transition to a public benefit company (PBC) that functions “entirely in the public interest” and demonstrates a complete lack of understanding about the company’s future.

⁷ Josh Katz and Margot Sanger-Katz, *‘It’s Huge, It’s Historic, It’s Unheard-of’: Drug Overdose Deaths Spike*, The New York Times (Jul. 14, 2021), <https://www.nytimes.com/interactive/2021/07/14/upshot/drug-overdose-deaths.html>.

⁸ Feijun Luo, Mengyao Li, and Curtis Florence, *State Level Economic Costs of Opioid Use Disorder and Fatal Opioid Overdose—United States, 2017*, 70 MORBIDITY AND MORTALITY WEEKLY REPORT 543 tbl.1 (2017), https://www.cdc.gov/mmwr/volumes/70/wr/mm7015a1.htm#T1_down.

⁹ See Silverman, *supra* note 1.

¹⁰ *In re Purdue Pharma.*, 19-23649, Doc. No. 3054 (Bankr. S.D.N.Y.), <http://freepdfhosting.com/0a6430de9c.pdf>.

¹¹ Mulvihill, *supra* note 4.

It would be contrary to public policy and public health – and a miscarriage of justice – to provide those running an alleged “criminal enterprise”¹² with upwards of \$35 million in bonuses, including \$5.4 million for top executives and \$67,000 per employee, while individual victims can receive no more than \$48,000. We therefore request reallocation of these funds towards settlements with victims, their families, and states and localities.

Sincerely,



RICHARD BLUMENTHAL
United States Senate



TAMMY BALDWIN
United States Senate



JOE MANCHIN III
United States Senate



TINA SMITH
United States Senate



MARGARET WOOD HASSAN
United States Senate



ELIZABETH WARREN
United States Senate

¹² *Attorney General Tong Disappointed with Purdue Plan*, The Office of Attorney General William Tong (Mar. 16, 2021), <https://portal.ct.gov/AG/Press-Releases/2021-Press-Releases/Attorney-General-Tong-Disappointed-with-Purdue-Plan>.