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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY**

DAVID HUSARSKY, on behalf of Himself
 and All Others Similarly Situated,

Plaintiff,

vs.

SCHERING-PLOUGH CORP., HANS W.
 BECHERER, THOMAS J. COLLIGAN, FRED
 HASSAN, C. ROBERT KIDDER, EUGENE R.
 MCGRATH, CARL E. MUNDY, JR.,
 ANTONIO M. PEREZ, PATRICIA F. RUSSO,
 JACK L. STAHL, CRAIG B. THOMPSON,
 M.D., KATHRYN C. TURNER, ROBERT
 F.W. VAN OORDT, ARTHUR F.
 WEINBACH, and MERCK & CO. INC.,

Defendants.

Civil Action No.

**CLASS ACTION COMPLAINT
 and DEMAND FOR JURY TRIAL**

Plaintiff, David Husarsky, his undersigned attorneys, makes the following allegations upon information and belief, except as to those allegations specifically pertaining to plaintiff and his counsel or which are predicated upon, *inter alia*, a review of public filings made with the Securities and Exchange Commission (“SEC”), press releases and reports, and

an investigation undertaken by Plaintiff's counsel. Plaintiff believes that further evidentiary support will exist for the allegations set forth below after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a shareholder class action brought by plaintiff on behalf of shareholders of Schering-Plough Corp. ("Schering-Plough" or the "Company") to enjoin and/or seek damages resulting from the proposed acquisition of the publicly owned shares of Schering-Plough common stock by Merck & Co Inc. ("Merck"), as detailed herein (the "Reverse Merger"). The Reverse Merger is valued at approximately \$41.1 billion.

2. In pursuing this unlawful plan to sell Schering-Plough for inadequate consideration, each of the defendants breached and/or aided and abetted the other defendants' breaches of their fiduciary duties of loyalty, due care, good faith and fair dealing.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because this is an action between citizens of different States and the amount in controversy, including the request for injunctive and/or declaratory relief, exceeds \$75,000 exclusive of interest and costs.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1391(c). Schering-Plough's principal place of business is located in this District. Many of the acts giving rise to the violations complained of herein occurred and/or had their primary effects in this District.

THE PARTIES

5. Plaintiff owns 300 shares of common stock of Schering-Plough, and held those shares during all times relevant hereto. Plaintiff is a citizen of the state of New York.

6. Defendant Schering-Plough is a New Jersey corporation with its principal place of business located at 2000 Galloping Hill Road, Kenilworth, NJ 07033. Schering-Plough is a global leader in the development, production and marketing of pharmaceuticals, consumer health care products, and animal health care products. For the year ended December 31, 2008, Schering-Plough had total revenues of \$18.5 billion. The Company's stock is listed on the New York Stock Exchange ("NYSE") under the symbol "SGP".

7. Defendant Fred Hassan ("Hassan") has served as Chairman of the Company's Board of Directors (the "Board") and Chief Executive Officer since April 2003. He is a citizen of New Jersey.

8. Defendant Hans W. Becherer ("Becherer") has been a director of Schering-Plough since 1989. He is a citizen of New Jersey.

9. Defendant Thomas J. Colligan ("Colligan") has been a director of Schering-Plough since 2005. He is not a citizen of New York.

10. Defendant C. Robert Kidder ("Kidder") has been a director of Schering-Plough since 2005. He is a citizen of Ohio.

11. Defendant Carl E. Mundy, Jr. ("Mundy") has been a director of Schering-Plough since 1995. He is not a citizen of New York.

12. Defendant Patricia F. Russo ("Russo") has been a director of Schering-Plough since 1995. She is a citizen of New Jersey.

13. Defendant Craig B. Thompson ("Thompson") has been a director of Schering-Plough since 2008. He is a citizen of Pennsylvania.

14. Defendant Kathryn C. Turner ("Turner") has been a director of Schering-Plough since 2001. She is a citizen of Virginia.

15. Defendant Robert F.W. Van Oordt (“Van Oordt”) has been a director of Schering-Plough since 1992. He is a citizen of the Netherlands.

16. The above defendants are collectively referred to hereinafter as the “Individual Defendants.” They constitute a majority of Schering-Plough’s 13-member board of directors.

17. As directors of Schering-Plough, each of the Individual Defendants has the highest fiduciary duties of good faith, loyalty, fair dealing, due care, and candor to plaintiff and the other members of the class.

18. The Individual Defendants are fiduciaries to the Company’s shareholders, which requires them to exercise their best judgment, and to act in a prudent manner and in the best interests of the Company’s shareholders.

19. Defendant Merck is a New Jersey corporation with its principal place of business located at One Merck Drive, P.O. Box 100, Whitehouse Station, NJ 08889. Merck is a global research-driven pharmaceutical company that discovers, develops, manufactures and markets vaccines and medicines. Merck’s stock is listed on the NYSE under the symbol “MRK.”

SUBSTANTIVE ALLEGATIONS
Company Background

20. Schering-Plough is a worldwide pharmaceutical company that discovers and markets new therapies and treatment programs. The Company’s core product groups include allergy/respiratory, anti-infective/anticancer, dermatologicals, and cardiovasculars, as well as an animal health business. Schering-Plough also conducts health management programs and sells other consumer products.

21. According to Schering-Plough’s 2008 Annual Report, as of December 31, 2008, Schering-Plough had more than 51,000 employees worldwide, with approximately 15,000

employees in the United States and approximately 36,000 employees outside the United States. It recorded total revenues of \$18.5 billion in 2008. For the year ended December 31, 2007, Schering-Plough recorded total revenues of \$12.7 billion.

The Reverse Merger

22. On March 9, 2009, Schering-Plough announced that it had signed a definitive reverse merger agreement with Merck in a deal valued at approximately \$41 billion. Under the terms of the Reverse Merger, each share of Schering-Plough common stock will be converted into \$10.50 in cash and 0.5767 Merck shares.

23. Defendant Hassan, commenting on the Reverse Merger, stated:

Over the last six years, Schering-Plough colleagues have transformed our company into a strong competitor in the global pharmaceutical industry. We have built a strong, diverse business and a robust pipeline that offers hope to patients who are waiting for new medicines. I am proud of what we have accomplished. Our success is a testament to the hard work and dedication of our colleagues in every country. We are joining forces with Merck, our long-term partner in our cholesterol joint venture, to create a dynamic new leader in the pharmaceutical industry. By harnessing the strengths of both companies, the combined entity will be well-positioned to further deliver on our shared goal of discovering new therapies for patients to help them live healthier, happier lives.

24. Additionally, Richard T. Clark, Chairman, President and Chief Executive Officer of defendant Merck stated:

We are creating a strong, global healthcare leader built for sustainable growth and success. The combined company will benefit from a formidable research and development pipeline, a significantly broader portfolio of medicines and an expanded presence in key international markets, particularly in high-growth emerging markets. The efficiencies we gain will allow us to invest in strategic opportunities, while creating meaningful value for shareholders.

We look forward to joining forces with an outstanding partner we know well and that shares our commitment to patients, employees and the communities where we work and live. Through their talent and dedication, Schering-Plough employees have built an industry leading R&D engine and late-stage pipeline that is complementary to our own. We are confident that, together, Merck and Schering-Plough will make a meaningful difference in the future of global healthcare.

25. The consideration offered in the Reverse Merger is unfair and grossly inadequate because, among other things, the intrinsic value of Schering-Plough's common stock is materially in excess of the amount offered for those securities in the proposed acquisition given the Company's prospects for future growth and earnings.

26. Under the terms of the Reverse Merger, the Schering-Plough shareholders would receive approximately \$23.61 a share (\$10.50 cash and 0.5767 Merck shares) roughly a 34 percent premium based on the closing price of Schering-Plough stock on March 6, 2009. Merck shareholders would own 68% of the combined company, and Schering Plough shareholders would own 32%.

27. The Reverse Merger agreement includes a termination fee of \$1.25 billion if either party decides to terminate the deal, including a situation where Schering-Plough accepts a superior proposal. This termination fee is grossly excessive and will unnecessarily deter other companies from making higher offers for Schering-Plough.

28. Before entering into the merger agreement Schering-Plough was not for sale and even after receiving the Merck proposal did not open itself up to competitive bids. It also did not perform a "market check" to determine the value the company would likely fetch if it were sold or merged with another company. The Individual Defendants therefore did not satisfy their fiduciary duty to use all reasonable efforts to obtain the best possible transaction for Schering-Plough's shareholders.

29. Schering-Plough represents a cure for what ails Merck: the lack of new drugs in the pipeline and the looming expiration of patent protection for its current mainstay products. On March 10, 2009, *The New York Times* reported that the Reverse Merger "is mainly about the drugs" according to many assessments of analysts. The article reported that for Merck, the "deal

may actually be a good opportunity to restock its medicine chest” because its “former blockbuster bone drug Fosamax has gone generic, and in a few years the same thing will happen to its best-selling allergy and asthma drug Singulair.” Moreover, the deal gives Merck “access to successful brand-name Schering products with much longer patents, like the prescription allergy spray Nasonex” and “popular consumer brands like Coppertone and Dr. Scholl’s, as well as a strong international presence – 70 percent of Schering revenue comes from outside the United States – that would extend Merck’s global reach.” Further, Schering-Plough has been investing more than Merck in developing biologics which are biotechnology drugs derived from living cells, making more difficult for generic companies to copy.

30. Also, on March 10, 2009, *The Wall Street Journal* reported after the merger agreement had been made public, Schering-Plough will bring “to Merck biotech, consumer-health and animal health businesses, as well as an expanded presence in Brazil, China and other emerging markets.”

31. On the same date *Bloomberg News* reported that the Reverse Merger gives Merck new products for cancer, immune diseases and psychiatric disorders. Also, Merck gets Schering-Plough’s biggest sellers that are not nearing patent expiration. Specifically, a “dozen Schering-Plough Corp. experimental drugs that are nearing marketing approval in the U.S may pay off for Merck & Co. before that company loses patents on medicines with \$8 billion in annual sales.” The Reverse Merger also gives Merck complete control of revenue of the cholesterol pills Zetia and Vytorin. The article noted that Merck’s \$4 billion asthma drug Singulair will face generic competition by 2012, but by then, Schering-Plough “plans to file for approval of seven drugs, each with more than \$1 billion in peak annual sales.”

32. The price set in the Reverse Merger did not adequately account for these synergistic benefits that Merck would receive in the transaction.

33. In contrast to the benefits of the Reverse Merger to Merck and its shareholders, the transaction puts in jeopardy Schering-Plough's 50% interest in the blockbuster arthritis treatment Remicade and a new arthritis therapy drug called Golimumab. Johnson & Johnson holds the other 50% interest in those pharmaceuticals and would have the contractual right to acquire Schering-Plough's interest if Schering Plough undergoes a "change of control". Defendants Clark and Hassan "structured the deal in legal terms as a takeover of Merck by Schering-Plough", *i.e.*, a reverse merger, in an attempt to avoid the change of control provision. There is no guaranty that this strategy will work if Johnson & Johnson challenges the transaction and attempts to invoke its change of control rights.

34. David S. Moskowitz, an analyst with Caris & Company, commented that Schering-Plough is so attractive to Merck because of "the number of drugs in their pipeline and the lack of generic competition", but that the uncertainty over Remicade puts Schering-Plough shareholders at a disadvantage and as a result the offer is too low for Schering-Plough. Mr. Moskowitz believes that it is "a tremendous deal for Merck," but undervalues Schering-Plough. Mr. Moskowitz values Schering-Plough at \$50 billion.

35. In an e-mail statement, Senator Charles E. Schumer criticized Merck and Schering-Plough over their partnership over the cholesterol drug Vytarin and stated his concerns over the Reverse Merger. Senator Schumer stated:

The last time these two companies teamed up, it was to aggressively market a brand-name drug that may not have provided any additional benefits over existing generics. That incident left a sour taste in the mouths of a lot of people, and may have cost the government a lot of money.

36. In their pursuit of the Reverse Merger the Defendants have breached their fiduciary duties to Schering-Plough's stockholders by depriving them of the possibility of achieving the best available price for their shares.

37. In light of the foregoing, the Defendants must, as their fiduciary obligations require:

A. Implement a procedure or process to obtain competitive bids for the company or take other equivalent steps to assure that any merger represents the best reasonably available transaction for shareholders;

B. Act independently so that the interests of Schering-Plough's public stockholders will be protected, including, but not limited to, the retention of truly independent advisors and/or the appointment of a truly independent Special Committee to properly consider the Reverse Merger;

C. Adequately ensure that no conflicts of interest exist between defendants' own interests and their fiduciary obligation to maximize stockholder value or, if such conflicts exist, to ensure that all conflicts be resolved in the best interests of Schering-Plough's public stockholders; and

D. Disclose the true value of the Company and all other material information to the Company's shareholders.

38. Accordingly, the Defendants have breached their fiduciary duties to Schering-Plough stockholders by causing the Company to enter into the definitive merger agreement that provides for the sale of Schering-Plough at an unfair price, and which deprives Schering-Plough's public shareholders of maximum value to which they are entitled.

CLASS ACTION ALLEGATIONS

39. Plaintiff brings this action individually and as a class action, pursuant to Fed.R.Civ.P. 23, on behalf of all common stockholders of Schering-Plough who are being and will be harmed by defendants' actions described below (the "Class"). Excluded from the Class

are Defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendants.

40. This action is properly maintainable as a class action. The Class is so numerous that joinder of all members is impracticable. As of January 31, 2009, there were approximately 1,626,412,285 shares of Schering-Plough common stock outstanding. The actual number of shareholders of Schering-Plough is believed to be in the thousands and will be ascertained through discovery.

41. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. The common questions include the following:

A. whether defendants have breached their fiduciary duties to the Class in connection with the Reverse Merger;

B. whether the Individual Defendants have breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of plaintiff and the other members of the Class in connection with the Reverse Merger;

C. whether defendants have breached any of their other fiduciary duties to plaintiff and the other members of the Class in connection with the Reverse Merger, including the duties of good faith, diligence, honesty and fair dealing;

D. whether the defendants have improperly impeded or erected barriers to discourage other offers for the Company or its assets; and

E. whether plaintiff and the other members of the Class would suffer irreparable injury were the transactions complained of herein consummated.

42. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff does not have any interests adverse to the Class.

43. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature who will fairly and adequately protect the interests of the Class.

44. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

45. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

FIRST COUNT
BREACH OF FIDUCIARY DUTY
(Against Schering-Plough and the
Individual Defendants)

46. Plaintiff repeats the allegations contained in paragraphs 1-45 as if fully set forth herein.

47. The Individual Defendants have violated their fiduciary duties of care, good faith and loyalty, owed to the public shareholders of Schering-Plough.

48. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, are attempting to unfairly deprive plaintiff and other members of the Class of the best reasonably available transaction in exchange for their investment in Schering-Plough.

49. The Individual Defendants have violated their fiduciary duties by entering into a transaction with Merck without regard to the fairness of the transaction to Schering-Plough shareholders.

50. The Individual Defendants failed to exercise the care required, and breached their duties of loyalty and good faith, owed to the shareholders of Schering-Plough because, among other reasons:

A. they failed to take steps to maximize the value of Schering-Plough to its public shareholders. They failed to conduct an auction of the company before accepting Merck's bid, they failed to conduct a market test;

B. they failed to properly value Schering-Plough or the synergistic benefits that would accrue to Merck in the transaction;

C. they approved a merger agreement that prohibits solicitation of competing bids;

D. they approved a merger agreement that interposes an excessive break up fee, which would establish a substantial hurdle to any competing bidders.

51. Because the Individual Defendants dominate and control the business and corporate affairs of Schering-Plough, and are in possession of private corporate information concerning Schering-Plough's assets, business and future prospects, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Schering-Plough which makes it inherently unfair for them to pursue any Reverse Merger wherein they will reap disproportionate benefits, such as change in control payments, to the exclusion of maximizing shareholder value.

52. By reason of the foregoing acts, practices and course of conduct, the defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward plaintiff and the other members of the Class.

53. As a result of the actions of defendants, plaintiff and the Class will suffer irreparable injury in that they have not and will not receive their fair portion of the value of Schering-

Plough's assets and businesses and have been and will be prevented from obtaining a fair price for their common stock.

54. Unless enjoined by this Court, the defendants will continue to breach their fiduciary duties owed to plaintiff and the Class, and may consummate the Reverse Merger which will exclude the Class from its fair share of Schering-Plough's valuable assets and businesses, and/or benefit them in the unfair manner complained of herein, all to the irreparable harm of the Class, as aforesaid.

55. Defendants are engaging in self-dealing, are not acting in good faith toward plaintiff and the other members of the Class, and have breached and are breaching their fiduciary duties to the members of the Class.

56. As a result of the defendants' unlawful actions, plaintiff and the other members of the Class will be irreparably harmed in that they will not receive their fair portion of the value of Schering-Plough's assets and business and will be prevented from obtaining the real value of their equity ownership of the Company. Unless the Reverse Merger is enjoined by the Court, defendants will continue to breach their fiduciary duties owed to plaintiff and the members of the Class; will not engage in arm's-length negotiations on the Reverse Merger terms; and may consummate the Reverse Merger, all to the irreparable harm of the members of the Class.

57. Plaintiff and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can plaintiff and the Class be fully protected from the immediate and irreparable injury which defendants' actions threaten to inflict.

SECOND COUNT
AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(Against Merck)

58. Plaintiff repeats the allegations contained in paragraphs 1-57 as if fully set forth herein.

59. Merck has knowingly aided and abetted the Individual Defendants' wrongdoing alleged herein. Merck has acted and is acting with knowledge or with reckless disregard that the other defendants are in breach of their fiduciary duties to Schering-Plough's public shareholders and have participated in such breaches of fiduciary duties by the directors of Schering-Plough and thus are liable as aiders and abettors. Merck is also an active and necessary participant in the Individual Defendants' plan to complete the Reverse Merger on terms that are unfair to Schering-Plough shareholders, as Merck seeks to pay as little as possible to Schering-Plough shareholders.

60. Plaintiff and the members of the Class have no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment, in his favor and in favor of the Class and against Defendants as follows:

A. Declaring that this action is properly maintainable as a Class Action and certifying plaintiff as Class Representative and Plaintiff's counsel as Class Counsel;

B. Declaring and decreeing that the merger agreement was entered into in breach of the fiduciary duties of defendants and is therefore unlawful and unenforceable;

C. Enjoining Defendants, their agents, counsel, employees and all persons acting in concert with them from consummating the Reverse Merger, unless and until the Company adopts and implements a procedure or process to obtain a merger agreement providing the best possible terms for shareholders;

D. Directing the Individual Defendants to exercise their fiduciary duties to obtain a transaction which is in the best interests of Schering-Plough's shareholders until the process for the sale or auction of the Company is completed and the best possible consideration is obtained for Schering-Plough;

E. Rescinding, to the extent already implemented, the Reverse Merger or any of the terms thereof;

F. Awarding damages to the class, in an amount to be determined at trial.

G. Awarding plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

H. Granting such other and further relief as this Court may deem just and proper.

CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
Attorneys for Plaintiff

By: /s/ James E. Cecchi
JAMES E. CECCHI

Dated: March 13, 2009

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