

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

RAPID PHARMACEUTICALS, AG,)
Plaintiff,) Civil Action No. 15-cv-13161-NMG
)
v.)
)
GAYTRI KACHROO, and)
ARISE BIOPHARMA, INC.)
Defendants.)

DEFENDANT GAYTRI KACHROO'S STATEMENT TO THE COURT

Defendant Gaytri Kachroo hereby respectfully files the following statement to the Court, as she is traveling in lieu of appearance. Defendant Gaytri Kachroo requests that this Court dismiss the complaint and the counter-claims pending in this case with prejudice for want of prosecution in view of the bankruptcy Trustee, Marc Trochsler's letter to the court, and the imminent conclusion of Rapid Pharmaceuticals AG in Liquidation, the formal Swiss name for the company during the pendency of bankruptcy proceedings in the Cantonal Court of Canton Zug, Switzerland.

Defendant, Gaytri Kachroo is grateful to this court for its initiative of April 10, 2019, seeking dismissal of this litigation that has been on the docket for the last 3 and half years. I

agree that if the complaint filed by Plaintiff Rapid Pharmaceutical AG is dismissed then the counter-claims against the Plaintiff may be dismissed with prejudice.

In February 2016, Stephen Kennedy Smith, Corey McCann, and Timothy Lipton filed for bankruptcy of Rapid Pharmaceutical AG (the “Company” or “Rapid”), resulting in millions of dollars of damage to the shareholders of the company. Only 5 months before in August 2015, they had successfully resurrected the Company, appealing a prior bankruptcy order on the basis the Company had insufficient funds and that 75% of the share capital of the Company did not approve any of the 4 restructuring plans circulated over the course of 3 ½ months (March to June 2015) at the behest of the Company’s auditors, KPMG.

In September 2015, these same individuals brought a lawsuit on behalf of the Company against Gaytri Kachroo and against Arise BioPharma, Inc.(“Arise”), the entity into which the Company would be restructured pursuant to the requirements of Swiss law and the restructuring plans, of which all shareholders were informed they would receive shareholding. Even after the bankruptcy filing of June 2015, all Rapid shareholders, including members of the alleged Board who were shareholders, were notified by electronic mail of an offer to increase their Rapid shareholding in Arise entitled “Offer to Former Rapid Shareholders.” (Exhibit A Offer to Former Rapid Shareholders – Methodology and Acceptance Forms – June 29 -July 3, 2015). At that time, over fifty percent (50%) of the issued share capital of Rapid was in favor of receiving their increased shareholding in Arise. The allegations in the Complaint were therefore knowingly false and without merit.

By February 2016, this alleged board circulated a new restructuring plan, one for which they themselves did not vote (in fact their plan was unanimously rejected), and informed the shareholders that they could not raise the funds required to continue the company, and so would proceed to file for bankruptcy, because in fact the Company was over-indebted - as it had been in June 2015. No other funding was raised by this alleged board to rescue the Company, and no post-bankruptcy offer was made to Rapid shareholders in any new entity they may have formed. (Exhibit B – Letter to Shareholders of 2/19/2016)

In March 2016, Mr. Trochsler, the court appointed bankruptcy administrator and trustee, planned to collocate the creditors and present them with the opportunity to purchase the litigation, an asset of the Company. If it was not purchased, then the litigation would be dismissed. Last week, April 2019, over three years later the bankruptcy trustee finally closed the purchase process in which no creditor purchased the litigation and sent a letter to this court. Mr. Trochsler has maintained to me that the Company had no funds to pursue the litigation from the outset and was not in communication with the U.S. attorneys who initiated the lawsuit.

The Defendants' Response to Rapid's complaint included counter-claims by Gaytri Kachroo against the Company. With the imminent conclusion of the Company's bankruptcy, and its carefully orchestrated sale of assets prior to the collocation of creditors and attempted sale of this litigation, no assets would be available to collect on any judgment related to the counter-claims. Therefore, the counter-claims against the Company cannot bear fruit.

As a result, if the Plaintiff, Rapid Pharmaceuticals AG in Liquidation, agrees to the dismissal of its complaint against the Defendants, with prejudice, Defendant, Gaytri Kachroo agrees to the dismissal of her counterclaims, with prejudice.

For the Defendant,

Dr. GAYTRI D. KACHROO

By,

/s/ Gaytri D. Kachroo

Date: April 17, 2019

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing to be served upon counsel of record for all parties via the ECF filing system this 17th day of April, 2019.

/s/ Gaytri D. Kachroo

Dr. Gaytri D. Kachroo