UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York, Plaintiff, v. ROBERT G. KRAMER, Defendant.	Case No. 26-991 **NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1441, 1442, and 1446, Defendant Robert G. Kramer ("Defendant" or "Mr. Kramer"), by and through his undersigned counsel, hereby removes the above-captioned action bearing Index No. 450441/2026 (the "Action") from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York. Pursuant to 28 U.S.C. § 1446(a), all "process, pleadings, and orders served upon [the] defendant" are attached hereto as Exhibit A.

The Complaint (Exhibit A-2) is an effort by the New York Attorney General ("NYAG") to usurp the authority of the federal government by bringing an insider trading suit based upon federal laws under the fig leaf of a state statute that has never been used in this manner. The NYAG seeks to expand its power and impose liability by second-guessing conduct that was undertaken pursuant to federal contracts and regulatory oversight as part of the federal government's COVID-19 vaccine development response during the First Trump Administration. The federal government previously reviewed the stock trades at issue and took no action. The Complaint implicates the regulatory authority of federal agencies, including the Securities

Exchange Commission ("SEC"), the Department of Defense ("DoD"), and the Food and Drug Administration ("FDA").

SHORT STATEMENT REGARDING BASES FOR REMOVAL

1. This case is subject to federal jurisdiction for three separate and independent reasons. First, the New York Attorney General ("NYAG") seeks to hold Mr. Kramer liable for actions he took under the authority of federal officers as part of the federal government's COVID-19 pandemic response, making removal proper under the federal-officer removal statute, 28 U.S.C. § 1442(a)(1). Second, the NYAG's claims arise under federal law, including the scope and application of a federal regulation governing insider trading compliance and the determination of materiality of information arising from FDA-regulated vaccine manufacturing development conducted under federal supervision, thereby conferring federal-question jurisdiction under 28 U.S.C. § 1331. Third, the Complaint seeks relief measured by alleged investor losses on behalf of New York investors and New York State employee retirement funds—identifiable private parties whose citizenship is diverse from Mr. Kramer's—giving rise to diversity jurisdiction under 28 U.S.C. § 1332.

BACKGROUND

2. In 2020, during the height of the COVID-19 public health crisis, the United States government mobilized an unprecedented, federal initiative to protect the public from COVID-19. The pandemic response effort was coordinated at the highest levels of the federal government under the umbrella of Operation Warp Speed and implemented through the U.S. Department of

Health and Human Services ("HHS"), FDA, DoD, and Biomedical Advanced Research and Development Authority ("BARDA").[1]

3. Emergent Biosolutions Inc. ("Emergent") participated in that response pursuant to federal contracts and longstanding agreements with BARDA designating Emergent's facilities for use in national public health emergencies.[2]

4. In May 2020, the Trump administration formally announced Operation Warp Speed, a partnership between HHS, BARDA, DoD, FDA, the National Institutes of Health, and the Centers for Disease Control and Prevention. Operation Warp Speed's goal was the development and distribution of COVID-19 vaccines critical to national security and public health, as well as the development of therapeutic products and diagnostic testing designed to protect the public from the COVID-19 virus. A multi-years long vaccine development process was collapsed into six months. To develop and produce a vaccine on such a shortened development timeline, the federal government needed the support of private commercial partners, working in collaboration with federal agencies. Every partner recognized the enormity of the hurdles in front of them and how difficult it would be for any single partner—let alone every partner—to produce a vaccine within such a time frame.

5. On June 1, 2020, the federal government awarded Emergent a $628 million contract to reserve development and manufacturing capacity as part of Operation Warp Speed. Shortly thereafter, and in coordination with the federal government, Emergent entered into subcontract

[1] The Complaint further references and relies on Operation Warp Speed and related federal oversight mechanisms, which the NYAG concedes governed Emergent's COVID-19 vaccine development activities and constrained the company's operational and disclosure decisions. *See* Compl. ¶¶ 3–4 & n.1, 23.

[2] On June 6, 2012, Emergent entered a $163 million contract with BARDA to designate Emergent's Bayview, Maryland facility as a Center for Innovation in Advanced Development and Manufacturing ("CIADM"). Under that agreement, BARDA committed approximately $163 million in federal funds to prepare the Bayview facility for vaccine development in the event of a pandemic of bioterrorist attack.

agreements with AstraZeneca PLC ("AstraZeneca") and Johnson & Johnson ("J&J") at the direction of Operation Warp Speed leadership to provide large-scale contract development services for COVID-19 vaccine candidates. The AstraZeneca subcontracts were executed in furtherance of, and subject to, Emergent's federally funded obligations under Operation Warp Speed and were governed by federal priorities, oversight, and confidentiality constraints arising from national-security and public-health objectives.

6. Throughout 2020 and 2021, Emergent's COVID-19 vaccine development operations—including facility allocation, production prioritization, remediation efforts, and communications concerning development issues—were directed and overseen by federal authorities as part of Operation Warp Speed. Federal officials determined how Emergent's facilities would be used, which vaccine programs would be prioritized, and how development challenges would be addressed.[3]

7. It is those federally supervised pandemic-response activities that form the basis of the New York Attorney General's Martin Act claim.

8. On January 15, 2026, the NYAG filed a Complaint against Mr. Kramer in the Supreme Court of the State of New York, New York County.

9. The NYAG alleges that Mr. Kramer, Emergent's former Chief Executive Officer ("CEO"), engaged in insider trading. As the Complaint makes clear, the concept of insider trading has been developed under federal law and is governed by federal regulation. The Complaint concedes that all trades at issue were executed by Mr. Kramer's broker pursuant to a plan executed

[3] The Complaint expressly acknowledges United States government's pervasive involvement in directing and overseeing vaccine development, as well as controlling supply, production, and distribution of the vaccine in 2020 and 2021. *See, e.g.*, Compl. ¶¶ 3–4, 5 & n.1, 23, 39–40, 45, 47–48, 61, 65, 75–76, 78.

in accordance with Rule 10b5–1 of the Securities Exchange Act of 1934 ("Exchange Act"), a federal law. *See* Rule 10b5–1(c)(1)(i)(A), 17 C.F.R. § 240.10b5–1(c)(1)(i)(A).

10. The NYAG further alleges that, at the time the Rule 10b5–1 Plan was executed in November 2020, Mr. Kramer possessed material non-public information ("MNPI") that prevented him from lawfully adopting that plan. It is undisputed, however, that no trades were executed until more than sixty days after the Rule 10b5–1 Plan was adopted, and only after Emergent's stock price had increased during that period. The alleged MNPI concerns Emergent's COVID-19 vaccine development operations, which during this period were subject to continuous federal oversight.

11. Notably, the challenges in the development of the COVID-19 vaccine that the Complaint references occurred in the early stages of the vaccine development process. The Complaint's theory of liability, thus, rests on the misguided assumption that developmental challenges in early-stage work on a "moonshot" initiative constitute material information. The fact that neither of the pharmaceutical companies collaborating with Emergent nor any federal government entity reported these challenges did not rise to the level of MNPI.

12. Emergent's contracts with the federal government also reflected an understanding that development challenges were inherent in accelerated vaccine production. Under those agreements, Emergent was generally compensated for production batches, including where a batch did not ultimately meet specifications. Those provisions further underscore why early-stage development issues did not carry the economic significance and, therefore, the materiality the NYAG now ascribes to them.

13. Further, the Complaint seeks to place liability onto Mr. Kramer for disclosures Emergent—in collaboration with the federal government and other private partners in Operation

Warp Speed—chose not to make. *See generally* Ex. B, SEC, *In re Emergent BioSolutions, Inc.*, *Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order*, Securities Act Release No. 11371 (Apr. 7, 2025), https://www.sec.gov/files/litigation/admin/2025/33-11371.pdf.

14. The Complaint concedes that the work Emergent was performing was pursuant to contracts under Operation Warp Speed, a federal emergency program to develop a COVID vaccine. According to the U.S. Government Accountability Office, "Operation Warp Speed was a federal effort that supported multiple COVID-19 vaccine candidates to speed up development."[4] Officials from the FDA, HHS, DoD, and BARDA were routinely present in Emergent's facility and deeply involved in overseeing facility use, determining which vaccine programs to prioritize, and investigating and remediating development issues.

15. The crux of the Complaint is that Mr. Kramer allegedly engaged in insider trading by adopting and executing a Rule 10b5–1 trading plan governed by federal securities law, *see* 17 C.F.R. § 240.10b5–1(c)(1)(i)(A), while aware of contamination events whose investigation, remediation, and disclosure were subject to ongoing federal oversight by the FDA during the COVID-19 pandemic.

16. Indeed, the Complaint repeatedly places the legality of Rule 10b5–1 plans at issue, expressly alleging that "[n]o statute, rule or law" permitted Mr. Kramer to adopt such a plan under the circumstances alleged. Compl. ¶ 12. In doing so, the NYAG attempts to step into the shoes of the SEC and asks the Court to adjudicate the scope and permissibility of a regulatory compliance

[4] U.S. Gov't Accountability Off., GAO-21-319, *Operation Warp Speed: Accelerated COVID-19 Vaccine Development Status and Efforts to Address Manufacturing Challenges* (Feb. 11, 2021), https://www.gao.gov/products/gao-21-319.

mechanism created and governed exclusively by federal law. *See* 17 C.F.R. § 240.10b5–1(c)(1)(i)(A).

17. This action is an enforcement proceeding brought not by the State of New York, but by the People of the State of New York, and seeks relief tied to alleged trading losses the Complaint claims were suffered by New York investors and employee pension funds whose citizenship is diverse from that of Mr. Kramer. Compl. ¶ 21.

JURISDICTION

18. This Court has subject matter jurisdiction under 28 U.S.C. § 1442(a)(1), as the NYAG brings this claim against Mr. Kramer based on actions that Emergent undertook at the direction of a federal officer, and attributed to Mr. Kramer based on his role in carrying out those actions on the company's behalf.

19. This Court also has jurisdiction under 28 U.S.C. § 1441(a), on the basis of original jurisdiction, because the NYAG asserts claims arising under federal law, 28 U.S.C. § 1331, because the Complaint's sole cause of action necessarily raises substantial and disputed questions of federal law.

20. Removal of this action is further proper because this Court has original diversity jurisdiction under 28 U.S.C. § 1332 because the amount in controversy exceeds $75,000 and the individuals whom the NYAG purports to represent—"New York investors, including New York State employee retirement funds[] [that] bought, sold, and held hundreds of thousands of shares in Emergent stock during the relevant period," Compl. ¶ 21—are citizens of New York, not Michigan. Because Mr. Kramer is a citizen of the State of Michigan, *see* Compl. ¶ 34, the parties are completely diverse.

21. To the extent the Court finds that the NYAG has pleaded multiple causes of action, the Court would have supplemental jurisdiction over any remaining claims under 28 U.S.C. § 1442(a)(1), and, alternatively, under 28 U.S.C. § 1367(a).[5]

VENUE

22. Venue is proper in this Court because the Complaint was filed in the Supreme Court of the State of New York, New York County, and the Southern District of New York is the district and division embracing the place where the action is pending. 28 U.S.C. §§ 1441(a), 1442(a), 1446(a).

BASES FOR REMOVAL

23. This case is subject to federal jurisdiction on three grounds. The NYAG seeks to impose liability on Mr. Kramer for actions taken in connection with, and under the supervision of, federal officers during the federal government's COVID-19 pandemic response, supporting removal under the federal officer removal statute, 28 U.S.C. § 1442(a)(1). The Complaint also necessarily raises substantial questions of federal law, including the interpretation and application of SEC regulations and the materiality of information arising from FDA-regulated vaccine development activities conducted under federal oversight, conferring federal-question jurisdiction under 28 U.S.C. § 1331. In addition, although styled as a state enforcement action, the Complaint seeks relief measured by alleged investor losses on behalf of New York investors and New York State employee retirement funds—private parties whose citizenship is diverse from Mr. Kramer's—giving rise to diversity jurisdiction under 28 U.S.C. § 1332.

[5] To the extent the Court finds this action is removable based on diversity jurisdiction, the removal statutes only permit removal of entire civil actions that are based on diversity jurisdiction.

I. THIS COURT HAS JURISDICTION UNDER THE FEDERAL OFFICER REMOVAL STATUTE

24. Removal of this action to federal court is proper under 28 U.S.C. § 1442(a)(1) because the NYAG's sole claim against Mr. Kramer is based on actions he and Emergent undertook at the direction of federal officers during the United States' COVID-19 pandemic response.

25. The federal officer removal statute provides that a civil action commenced in state court may be removed to federal court if it is brought against "any officer (or any person acting under that officer) of the United States or of any agency thereof . . . for or relating to any act under color of such office." 28 U.S.C. § 1442(a)(1). Congress enacted the statute to ensure such cases implicating federal operations—particularly those involving national emergencies—are adjudicated in a federal forum.

26. It is well established that government contractors—and individual employees acting on their behalf—may invoke the federal officer removal statute when they assist federal officers in carrying out their duties under close federal direction. *See Isaacson v. Dow Chem. Co.*, 517 F.3d 129, 136 (2d Cir. 2008).

27. Under 28 U.S.C. § 1442(a)(2), a party seeking removal must establish that (1) he is a "person" who acted under a federal officer's authority, (2) the conduct for which he is being sued was performed "for or relating to" acts taken under color of federal office, *i.e.*, there exists a "causal connection" between the plaintiff's claims and the defendant's acts under asserted official authority, and (3) there is a colorable federal defense. *Caver v. Cent. Ala. Elec. Coop.*, 845 F.3d 1135, 1142 (11th Cir. 2017). The federal officer removal statute is construed broadly and designed to protect federal operations from state-court interference. *See Isaacson*, 517 F.3d at 136. The statute can apply regardless of whether the Court has original jurisdiction over that matter.

28. Unlike removal under 28 U.S.C. § 1441, federal officer removal under section 1442 is not analyzed solely on the allegations appearing on the face of the complaint. Under section 1442, courts may credit and consider the defendant's theory of the case. *See, e.g.*, *Isaacson*, 517 F.3d at 137–38; *Leite v. Crane Co.*, 749 F.3d 1117, 1124 (9th Cir. 2014) ("In assessing whether a causal nexus exists, we credit the defendant's theory of the case."); *Jefferson County v. Acker*, 527 U.S. 423, 432 (1999) (same); *Issacson*, 517 F.3d at 138.

A. Emergent and Mr. Kramer Acted Under the Direction of Federal Officers Regarding the Federally-Directed Pandemic Response

29. Mr. Kramer is a "person" who acted under a federal officer's authority. 1 U.S.C. § 1. In 2020 and 2021, Emergent was an integral part of the federal government's pandemic response. Through Operation Warp Speed, the federal government—acting principally through the FDA, HHS, DoD, and BARDA—directed and supervised Emergent's COVID-19 vaccine development operations. Federal officials determined how Emergent's capabilities would be utilized, including which vaccine programs would be developed and prioritized, when development and production would be accelerated or paused, and how development challenges would be investigated, remediated, and communicated. *See Isaacson*, 517 F.3d at 136–37 (holding defendants were "acting under" federal officers where defendants contracted with the government to provide a product the government was using during war and received delegated authority through those contracts).

30. As the Complaint alleges, Emergent's COVID-19 response was directed by federal agencies, including the FDA, HHS, DoD, and BARDA, and was subject to continuous federal involvement and oversight. *See, e.g.*, Compl. ¶¶ 3–4, 5 & n.1, 23, 39–40, 45, 47–48, 61, 65, 75–76, 78. Mr. Kramer's role as CEO was to implement and oversee those federal directives. He did not decide how Emergent would allocate its facilities during the pandemic or how development

challenges would be addressed. Rather, he executed decisions made as part of a federal response to a national emergency. *See Isaacson*, 517 F.3d at 136–38 (holding contractors acted under federal officers where government specified product and method of production, exercised close oversight, and the challenged conduct arose from performing government-directed duties—even if the precise act was not specifically contemplated by the contract).

31. In order for Mr. Kramer to seek removal under this statute, Emergent must have been "acting under" a federal program or official. The words "acting under" are to be interpreted broadly, and the statute must be liberally construed. *Id.* at 136; *Watson v. Philip Morris Cos.*, 551 U.S. 142, 147 (2007); *Caver*, 845 F.3d at 1142. "Acting under" includes "an effort to *assist*, or to help *carry out*, the duties or tasks of the federal superior." *Watson*, 551 U.S. at 152. Courts have consistently held that the "acting under" requirement is easily satisfied where a private contractor assists the federal government in carrying out a governmental function pursuant to federal direction and oversight. *Isaacson*, 517 F.3d at 137.

B. The NYAG's Allegations Are Causally Connected to Federally Directed Conduct

32. There is a clear nexus between the NYAG's claims against Mr. Kramer and the federally-directed work Emergent performed. The acts complained of were taken "under color of [federal] office." 28 U.S.C. § 1442(a)(1). The "hurdle" erected by this requirement is "quite low," as "'[t]he statute does not require that the prosecution must be for the very acts which the officer admits to have been done by him under federal authority.'" *Isaacson*, 517 F.3d at 137 (citation omitted). It is enough that the federal officer's "acts or [] presence at the place in performance of his official duty constitute the basis, though mistaken or false, of the state prosecution." *Id.* In other words, "such [officers] must demonstrate that the acts for which they are being sued . . . occurred *because of* what they were asked to do by the Government." *Id.*

33. The NYAG's allegations concern Emergent's COVID-19 vaccine development operations, including development challenges, contamination issues, and public disclosures concerning those issues. *See, e.g.*, Compl. ¶¶ 39–40, 47–48. Each of these issues arise only because Emergent was helping to develop and produce COVID-19 vaccines pursuant to federal contracts and federal pandemic-response initiatives under the continuous oversight of HHS, BARDA, DoD, and the FDA.

34. The NYAG alleges that certain challenges encountered during the development of the COVID-19 vaccine should have been disclosed by Emergent. It is that alleged failure to disclose by the company that forms the basis for the federally based insider trading allegations against Mr. Kramer.[6] *See Isaacson*, 517 F.3d at 138.

C. Mr. Kramer Has Colorable Federal Defenses

35. Mr. Kramer has multiple federal defenses sufficient to satisfy section 1442. *Leite*, 749 F.3d at 1124 (defendants invoking § 1442(a)(1) need not win his case before he can have it removed); *Willingham v. Morgan*, 395 U.S. 402, 407 (1969); *see also Jefferson County* , 527 U.S. at 431 (requiring defendant to prove by a preponderance of the evidence that its federal defense is "colorable").

36. As the Complaint acknowledges, the challenged trades were executed pursuant to a Rule 10b5–1 trading plan governed by federal securities law. Compl. ¶¶ 10–13, 20 50–56, 80–88, 96–110, 118; 17 C.F.R. § 240.10b5–1(c)(1)(i)(A) (categorizing Rule 10b5–1(c)(1)(i)(A) as an affirmative defense to insider trading claims). A Rule 10b5–1 trading plan removes the insider's discretion over the timing, price, and volume of trades, which are instead carried out by

[6] *Leite*, 749 F.3d at 1120 (allegations of government's evolving awareness of asbestos risks and that government "knew at least as much about asbestos hazards" as the government contractor factored into federal officer removal statutory requirements).

a broker in accordance with the plan's pre-set terms. Here, the trades at issue were executed by Mr. Kramer's broker more than two months after Mr. Kramer's discretion had been eliminated, and only because the stock price increased during those two months. The NYAG's attempt to impose liability based on conduct undertaken within that federal regulatory framework further underscores the propriety of a federal forum.

37. Mr. Kramer also has additional colorable federal defenses arising from the federally directed nature of Emergent's COVID-19 vaccine development operations. Emergent was a government contractor and provided regular disclosures to BARDA, HHS, DoD, and other federal authorities—including through weekly reports—concerning issues encountered during COVID-19 vaccine development and production. The NYAG's theory rests on an alleged failure to disclose issues arising from those operations, Compl. ¶¶ 66–69, and federal law recognizes immunity where the contractor conveyed relevant information to the federal government and acted under federal direction. *Cf. Gates v. A.O. Smith Water Prods. Co.*, No. 13-cv-1435, 2014 WL 104965, at *5 (N.D.N.Y. Jan. 9, 2014) (noting that, in the context of a failure-to-warn case, Supreme Court precedent requires a defendant to show that federal officials dictated the contents of any disclosures that would accompany the product). Because the NYAG's claim against Mr. Kramer is derivative of alleged disclosure failures by the company under BARDA, HHS, DoD, and other federal authorities' oversight, those defenses arise directly from acts taken under color of federal office.

38. In sum, this case exists only because the federal government—through the White House, HHS, BARDA, FDA, DoD, and Operation Warp Speed—directed and supervised Emergent's vaccine development operations during the COVID-19 pandemic. The NYAG now seeks to impose liability based on how those federally directed operations unfolded. Congress

enacted section 1442 to ensure such cases are heard in federal court. Removal under 28 U.S.C. § 1442(a)(1) is therefore proper.

II. THIS COURT HAS FEDERAL QUESTION JURISDICTION

39. Removal of this action is also warranted under 28 U.S.C. § 1441(a) on the basis of "original jurisdiction" because the Complaint asserts claims "arising under" federal law. 28 U.S.C. § 1331.

40. Congress has authorized original subject matter jurisdiction in federal court for all civil actions "arising under" the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331.

41. A case can "arise under" federal law in two ways. First, a case arises under federal law when federal law creates the cause of action asserted. *Gunn v. Minton*, 568 U.S. 251, 258 (2013). Even where a claim, however, "finds its origins in state rather than federal law," the Supreme Court has identified a "special and small category" of cases in which arising under jurisdiction still lies. *Id.* Federal jurisdiction over a state law claim will lie if a federal issue is (1) necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress. *Id.* (citing *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 314 (2005)). When all four requirements are met, there is federal question jurisdiction. *Id.*; *see New York v. Arm or Ally, LLC*, 644 F. Supp. 3d 70, 75 (S.D.N.Y. 2022) (holding removal "[a]ll of the State's claims are brought under New York State law").

A. The Federal Issues Are "Necessarily Raised"

42. The Complaint's sole theory of liability turns on the legality of adopting a Rule 10b5–1 plan. Compl. ¶¶ 10–13, 20, 50–56, 80–88, 96–110, 118–22. Rule 10b5–1 is a federal regulation promulgated by the SEC under Section 10(b) of the Securities Exchange Act of 1934.

There is no independent state-law standard governing when a Rule 10b5–1 plan may be adopted or what legal effect such a plan has when adopted. To prevail, the NYAG must establish that Mr. Kramer's conduct was unlawful—notwithstanding the fact the company specifically approved it—under the federal regulatory framework that expressly governs Rule 10b5–1 plans. *New York ex rel. Jacobson v. Wells Fargo Nat'l Bank N.A.* ("*Jacobson*"), 824 F.3d 308, 317 (2d Cir. 2016) ("[I]n order to establish a false statement or record within the meaning of the [New York False Claims Act], [plaintiff] must prove at least that the trusts did not qualify under federal law" and "this issue is obviously disputed, as the central premise of [defendant]'s motion to dismiss was that the trusts did qualify under federal law, properly interpreted."). That inquiry necessarily requires interpretation of federal securities law and SEC regulations.

43. Federal law is also necessarily raised because the NYAG's theory depends on establishing that the alleged information concerning development issues was material. The information at issue concerns COVID-19 vaccine development activities. At the time, this effort was in the early stages of vaccine development, before full licensure, and were conducted pursuant to evolving FDA regulatory frameworks applicable to emergency-use and pandemic-response efforts. Over the relevant period, the FDA—working in coordination with HHS, DoD, and BARDA as part of Operation Warp Speed—regulated virtually every aspect of Emergent's vaccine development operations, including quality systems, contamination investigations, remediation protocols, and batch release decisions. Whether vaccine development issues were material to investors depends on how those issues were classified, evaluated, investigated, and addressed under FDA law and regulatory guidance. The Court, thus, cannot determine whether the alleged information was material without examining FDA regulatory standards governing vaccine development, compliance, and remediation during a public-health emergency—and without

considering the FDA's role in supervising and responding to the very events the NYAG claims were material.

44. The Complaint also necessarily implicates federal securities laws because it seeks to impose liability for conduct that has already been evaluated and resolved under the federal securities regulatory framework. The SEC investigated the same course of conduct and resolved it through a federal enforcement proceeding, and related private securities actions were resolved through settlements approved by federal courts. Adjudicating the NYAG's claim would therefore require a court to assess the scope and permissibility of conduct under federal securities standards already applied by federal regulators and courts.

B. The Federal Issues Are Actually Disputed

45. For an issue to be actually disputed, it must qualify as the "central" point in dispute. *Gunn*, 568 U.S. at 259. For example, in *Jacobson*, the Second Circuit held that the "actually disputed" factor was satisfied because "the complaint predicated liability on the assertion that IRS Form 1066 filings were false" and the central dispute in the case was whether the defendant misclassified certain trust assets under federal law to avoid paying New York taxes. 824 F.3d at 317 ("[I]n order to establish a false statement or record within the meaning of the [New York False Claims Act], [plaintiff] must prove at least that the trusts did not qualify under federal law" and "this issue is obviously disputed, as the central premise of [defendant]'s motion to dismiss was that the trusts did qualify under federal law, properly interpreted.").

46. The parties squarely dispute whether adopting a Rule 10b5–1 plan under the circumstances alleged is permissible under federal securities law. *See* Compl. ¶ 12 ("No statute, rule, or law permits Rule 10b5–1 trading plans to be used" under the circumstances here); *see also* Ex. C, N.Y. Att'y Gen., *In re Emergent BioSolutions, Inc.*, Assurance of Discontinuance ("AOD") ¶ 15 (Jan. 15, 2026), https://ag.ny.gov/sites/default/files/settlements-agreements/emergent-

biosolutions-inc-assurance-of-discontinuance-2026.pdf ("[F]ederal securities laws forbid the trading of stock by company insiders in possession of material non-public information."). The federal securities rules include SEC Rule 10b5–1, which allows company executives and management to establish a trading plan for the purchase or sale of company stock on a pre-arranged schedule. 17 C.F.R. § 240.10b5–1. To resolve this case, the meaning and application of a federal regulation presents an "actually disputed" federal issue. *See Gunn*, 568 U.S. at 259 (federal issue is "actually disputed" when the parties "have a dispute respecting the effect of federal law") (cleaned up).

47. The NYAG's materiality theory turns on how COVID-19 vaccine development issues—addressed pursuant to federally negotiated contracts and under FDA oversight during Operation Warp Speed—were classified, evaluated, and resolved under federal regulatory standards. Emergent's federal contracts did not treat routine development or production issues as revenue-ending or altering events. Whether and when such issues were material to investors, therefore, depends on how they were evaluated and addressed within that federally supervised framework and whether, under federal securities law, they altered Emergent's revenue prospects or triggered disclosure obligations. The Court cannot resolve that materiality inquiry without interpreting federal regulatory judgments and applying federal securities-law standards governing disclosure during a federally directed public-health emergency.

48. The Complaint's theory also requires a court to determine that alleged vaccine development issues—occurring in the midst of a federally directed pandemic response—were material to investors, notwithstanding the FDA's ongoing oversight, investigation, and regulatory management of those issues. Whether and when such information is material cannot be resolved

without determining the role and effect of FDA regulatory judgments during the COVID-19 emergency.

C. The Federal Issues Are Substantial

49. The federal issues presented are substantial because the NYAG's theory would redefine the permissible scope of a federally created stock trading compliance mechanism on which executives nationwide rely. *See Jacobson*, 824 F.3d at 317–18 (holding specific tax exemption was a "creature of federal law that accords favorable tax treatment to investments" and the purpose of that legislation was to provide "clear rules" clarifying the tax treatment of mortgage-backed securities, citing IRS Revenue Procedures and Private Letter Rulings that the IRS would not challenge tax-exempt status if the exemption applied). The Supreme Court has explained that substantiality does not turn on whether the federal issue is significant to the parties in the immediate suit, but "looks instead to the importance of the issue to the federal system as a whole." *Gunn*, 568 U.S. at 260; *see Jacobson*, 824 F.3d at 317–18. Whether a state may impose liability based on its own interpretation of when a Rule 10b5–1 plan may be adopted implicates the uniformity and predictability of federal securities regulation and is important to the federal system as a whole. *See Jacobson*, 824 F.3d at 317–18.

50. If the NYAG prevails on her claim, the Court would necessarily be declaring unlawful conduct that the SEC has long regulated and permitted under federal law. That outcome would not merely affect the parties here; it would recalibrate the SEC's interpretation of Rule 10b5–1 and curtail the agency's regulatory flexibility with respect to a compliance mechanism it has created and overseen for decades. It also would subject executives nationwide to retroactive liability based on state-by-state interpretations of a federal compliance mechanism, an outcome incompatible with the federal interest in uniform securities regulation.

51. The federal issues are also substantial because the NYAG's theory of liability requires a court to determine whether the alleged vaccine development information was material to investors in real time. The alleged information concerns production issues inside an FDA-regulated vaccine development environment during a public-health emergency. In that setting, the significance of the alleged vaccine development issues depended on how the FDA categorized them, how the FDA-directed investigations progressed, and whether the FDA ultimately permitted production to continue. Those issues depend on the content and operation of FDA regulatory standards that structured the flow and interpretation of information during Operation Warp Speed.

52. A state law adjudication that necessarily decides the regulatory significance of FDA-supervised vaccine development events during a national emergency has consequences beyond this case, because it implicates how federally regulated public-health operations translate into securities-law materiality determinations across national markets.

53. Thus, the NYAG's theory requires a court to decide what definition of materiality governs Emergent's disclosure obligations under federal securities laws when it prepared and filed Forms 10-Q and 10-K. Emergent's disclosure duties arise under federal law and are governed by federal materiality standards developed by the SEC and federal courts. Allowing a state-law enforcement action to apply a different or state-specific conception of materiality to those federally required disclosures would risk subjecting a single set of filings to multiple, potentially inconsistent standards, depending on the forum. The question of which materiality standard applies to a public company's federal disclosures therefore presents an issue of central importance to the uniform operation of the federal securities regime.

D. Exercising Jurisdiction Respects the Federal-State Balance

54. Finally, exercising federal jurisdiction here would not disrupt any congressionally approved balance of state and federal judicial responsibilities. *See Jacobson*, 824 F.3d at 317–18.

A state court is not the traditional forum to interpret federal SEC regulations, and New York has evinced no interest in enacting any law governing Rule 10b5–1 plans. *See id.* (holding exercising federal jurisdiction would not upset the federal-state judicial balance because, even though New York had an interest in determining the meaning of its own tax laws, New York evinced no interest in enacting any law governing the federal tax exemption).

55. Congress and the SEC have occupied this field. Rule 10b5–1 was promulgated to provide a uniform federal framework governing when insiders may trade pursuant to pre-established plans without incurring insider-trading liability. Determining whether the adoption of such a plan is permissible, and what legal effect the plan has at the moment of adoption, is therefore a question committed to federal law. Allowing a state court to redefine the legal consequences of a Rule 10b5–1 plan would not supplement federal enforcement; it would override the federal regulatory scheme.

56. Exercising federal jurisdiction here also preserves the federal-state balance because the NYAG's materiality theory depends on what FDA-supervised vaccine production developments meant at specific moments during the federally-directed COVID-19 response. Because Emergent's vaccine development issues were investigated, evaluated, and resolved through FDA oversight, the significance of those issues cannot be addressed without understanding their regulatory status at the time. Resolving that embedded federal question in federal court avoids inconsistent interpretations of the same FDA-regulated events across different states.

E. The Complaint Advances the Same Federally Defined Theory Contained in the NYAG's Settlement with Emergent

57. It is settled law that a cause of action "arises under" federal law when the plaintiff's well-pleaded complaint raises issues of federal law. *NASDAQ OMX Grp., Inc. v. UBS Sec., LLC*, 770 F.3d 1010, 1019 (2d Cir. 2014).

58. Here, the NYAG's Complaint does not avoid federal law; it is permeated by it. The theory of liability rests on whether Mr. Kramer's adoption of a Rule 10b5–1 plan was permissible—an inquiry that exists only by virtue of federal securities law and the SEC's regulatory framework. Indeed, the NYAG characterized the same conduct in federal terms. Indeed, the NYAG's Assurance of Discontinuance with Emergent—publicly announced simultaneously with the Complaint—expressly invokes and relies upon federal securities law and federal regulatory standards. *See, e.g.*, Ex. C, Assurance of Discontinuance ¶ 15 ; *id.* ¶ 15 & n.* (citing 17 C.F.R. [§]240.10b5-1).

59. The Complaint here adopts the same language and theory—asserting that no law permits Rule 10b5–1 trading plans to be used to evade insider trading laws—while omitting many—but not all—references to federal statutes, federal regulations, and the SEC's role in defining the legal effect of such plans. Although the NYAG attempted to sanitize the Complaint of some of the federal jargon used in the Assurance of Discontinuance, the Complaint depends on and repeatedly references federal laws, federal regulations, and federal agencies. *Compare* Ex. C, Assurance of Discontinuance ¶ 15 ("[N]either ***federal*** law, nor New York state law, permits SEC Rule 10b5–1 trading plans to be used as a way of evading insider trading laws.") (emphasis added); *with* Compl. ¶ 12 ("No statute, rule or law permits Rule 10b5–1 trading plans to be used as a way of evading insider trading laws") (removing the word "federal"); *compare* Ex. C, Assurance of Discontinuance ¶ 15 ("***[F]ederal*** securities laws forbid the trading of stock by company insiders in possession of material non-public information") (emphasis added); with Compl. ¶ 12 ("The Martin Act, New York General Business Law § 352 [] forbids . . . the trading of stock by company insiders in possession of material nonpublic information") (removing the word "federal") *see also* Ex. C, Assurance of Discontinuance ¶ 15 (citing 17 C.F.R. § 240.10b5–1 and explaining that

"federal securities rule[] allows company insiders to establish a trading plan"). The NYAG cannot rewrite the legal reality: the conduct it challenges—and the legal standards it invokes—exist only because of federal securities law.

60. These omissions do not alter the federal nature of the claim. Whether a Rule 10b5–1 trading plan may lawfully be adopted and executed, and what legal consequences attach to such conduct, are questions governed by federal law and defined by the SEC's regulatory regime. Because the NYAG's claim necessarily turns on the meaning and application of federal securities law, this Court has federal question jurisdiction notwithstanding the Complaint's invocation of the Martin Act.

III. THIS COURT HAS DIVERSITY JURISDICTION

61. Removal of this action is also proper because this Court has original diversity jurisdiction pursuant to 28 U.S.C. § 1332, as the amount in controversy exceeds $75,000, exclusive of interest and costs, and the individuals whom the NYAG purports to represent—New York citizens who were investors in Emergent—are citizens of different states than Mr. Kramer. *See Colavito v. N.Y. Organ Donor Network, Inc.*, 438 F.3d 214, 220–21 (2d Cir. 2006).

62. Mr. Kramer is a citizen of the state of Michigan. *See* Compl. ¶ 34. In 2020 and 2021, Mr. Kramer was the CEO of Emergent, a Delaware corporation with principal executive offices located in Gaithersburg, Maryland.

63. Although the Complaint is styled as an enforcement action by the People of the State of New York, the Court must look beyond the caption to determine whether the State of New York is the real party in interest before concluding diversity jurisdiction does not lie. *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 174 (2014); *Navarro Sav. Ass'n v. Lee*, 446 U.S. 458, 460–61 (1980). When a complaint reveals that a state "merely asserts the personal

claims of its citizens, the state is not the real party in interest," and its presence does not defeat diversity. *AU Optronics*, 571 U.S. at 174; *In re Baldwin-United Corp.*, 770 F.2d 328, 341 (2d Cir. 1985); *see Ex parte Nebraska*, 209 U.S. 436, 444–46 (1908); *Finkielstain v. Seidel*, 857 F.2d 893, 895 (2d Cir. 1988) (considering "the 'essential nature and effect of the proceeding'" to evaluate whether the state is the real party in interest) (citation omitted); *see also Mo., Kan., & Tex. Ry. Co. v. Missouri R.R. & Warehouse Comm'rs* ("*Missouri Railway*"), 183 U.S. 53, 59 (1901).

64. This action asserts only a single cause of action under the Martin Act. The text of the Martin Act confirms that the New York Attorney General acts only as a statutory representative, not as a real party in interest. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Cavicchia*, 311 F. Supp. 149, 155–56 (S.D.N.Y. 1970). Section 353 expressly empowers the NYAG, upon believing that any person "has engaged in, is engaged or is about to engage in any . . . fraudulent practices, [s]he may bring an action ***in the name and on behalf of the people of the state of New York*** against such person . . . ." N.Y. Gen. Bus. Law § 353(1) (emphasis added); *see Cavicchia*, 311 F. Supp. at 156 (quoting the same language and holding that language "negates any notion that the state as such has a real interest in the controversy"). The Martin Act—unlike other New York statutes—does *not* authorize the NYAG to assert claims on behalf of the State itself; it authorizes suit solely as representative of affected members of the public. *Compare* N.Y. Gen. Bus. Law § 353 (authorizing suit "in the name ***and on behalf of*** the people of the state of New York"), *with* N.Y. Exec. Law § 63(12) (authorizing suit "in the name of the people of the state of New York" but not expressly "on behalf of"), *and* N.Y. Not-for-Profit Corp. Law

§§ 720(a), 1214, 1303 (empowering the attorney general herself to assert claims on behalf of the State),[7] *and* N.Y. Est. Powers & Trusts Law § 8-1.4(m) (same).

65. Longstanding United States Supreme Court and Second Circuit authority establishes that when a State sues to seek redress for an identifiable group of state citizens, the State is a nominal party whose generalized interest in enforcing the law does not make it a real party in interest for diversity purposes. *Missouri Railway*, 183 U.S. at 60 (explaining the State is just a nominal party if its stake in the suit is a "general government interest" in "secur[ing] compliance with the law."); *see Baldwin-United Corp.*, 770 F.2d at 341 ("To start with, when the state merely asserts the personal claims of its citizens, it is not the real party in interest[.]"). A State has a real interest only where "the relief sought is that which inures to it alone," such that a judgment would operate in the State's favor as a sovereign—not merely as a conduit for private recovery. *Missouri Railway*, 183 U.S. at 59.

66. That is not the case here. The NYAG's action seeks relief on behalf of discrete, identifiable New York investors and New York State employee retirement funds that purchased Emergent securities at the time of the alleged harm. Compl. ¶ 21 ("New York investors, including New York State employee retirement funds, bought, sold, and held hundreds of thousands of shares in Emergent stock during the relevant period."). Indeed, the NYAG requests substantially the same relief that those individuals, including pension funds and individual investors, pursued in

[7] For example, the State has a strong interest in enforcing its not-for-profit laws. *See In re McDonell*, 757 N.Y.S.2d 678, 680 (N.Y. Sup. Dec. 10, 2002) ("The State Legislature has given the Attorney General broad supervisory and oversight responsibilities over charitable asserts and their fiduciaries, as enumerated in the Not-for-Profit Corporation Law, the EPTL and the Executive Law." (citing N-PCL §§ 112 and 720; EPTL §§ 8–1.1(f); 8–1.4; Executive Law art. 7–A)); *People ex rel. Schneiderman v. James*, No. 451488/2012, 2013 WL 1390877, at *4 (N.Y. Sup. Ct. Apr. 3, 2013) ("Given 'the significant public interest in the management and affairs of not-for-profit corporations,' the 'Attorney General has extensive supervisory and enforcement authority over not-for-profit corporations.'" (citation omitted)); *see also* N.Y. Not-for-Profit Corp. Law § 720, cmt. b.

their now-settled private securities litigation.[8] The fact that the NYAG invokes the Martin Act to prosecute these claims does not alter the compensatory and investor-specific nature of the action.

67. The NYAG's Complaint itself confirms that the alleged misconduct is framed entirely in terms of investor harm. *See, e.g.*, Compl. ¶ 21 ("New York investors, including New York State employee retirement funds, bought, sold, and held hundreds of thousands of shares in Emergent stock during the relevant period."); *id.* ¶ 110 ("These statements by Defendant Kramer underscore the significance of AZD1222 and Emergent's manufacturing difficulties to investors."); *id.* ¶ 122 ("Kramer engaged in a fraudulent practice under GBL Section 342 in that he . . . engaged in a practice or transaction or course of business . . . which would operate as a fraud upon the purchaser."). The asserted injury is economic, individualized, and borne by investors—not by the State of New York as sovereign.

68. The NYAG seeks disgorgement measured by alleged trading profits and damages measured by investor losses—relief that mirrors the damages sought in a private securities fraud action. *See* Compl., Prayer for Relief. The beneficiaries of that relief are not the State of New York, but a defined group of New York investors who purchased Emergent securities during the relevant period. *See* N.Y. Gen. Bus. Law § 353-a.

69. Specifically, the NYAG seeks (1) an injunction barring Mr. Kramer from engaging in the alleged conduct, specifically from adopting a Rule 10b5–1 plan under these circumstances; (2) disgorgement of amounts allegedly obtained in connection with the trading plan, plus

[8] Beginning in April 2021, several class actions were filed in the U.S. District Court for the District of Mayland, alleging that Emergent withheld critical information about quality control at Bayview, including the results of inspections by the FDA. *See, e.g.*, Compl., *In re Emergent BioSolutions Inc. Stockholder Derivative Litigation*, No. 21-cv-01595 (D. Md. June 29, 2021), Dkt. No. 1 (seeking damages, restitution, and disgorgement of all profits, including all ill-gotten gains from insider selling); Compl., *Levin v. Emergent BioSolutions et al.*, No. 23-cv-02969 (D. Md. Nov. 1, 2023), Dkt. No. 1.

prejudgment interest;[9] (3) damages caused by the trading plan, plus prejudgment interest; (4) costs to the State of New York of two thousand dollars[10]; and (5) other relief the Court deems just and proper.

70. Functionally, this action operates as a substitute for a private securities class action, prosecuted by the NYAG in lieu of individual investors. Because the real parties in interest are New York investors whose citizenship is diverse from Mr. Kramer's, and because the amount in controversy far exceeds $75,000, this Court has diversity jurisdiction under 28 U.S.C. § 1332.

71. New York's generalized interest in enforcing its laws does not transform the State into a real party in interest. *Cavicchia*, 311 F. Supp. at 156 (holding State was not real party in interest for Martin Act claim because remedies sought were for defrauded New York citizens); *In re Baldwin-United Corp.*, 770 F.2d at 341. Otherwise, "the State would be a party in interest in all litigation," because the State always has an interest in enforcing its laws. *Missouri Railway*, 183 U.S. at 60.

72. Similarly, the NYAG's nominal claim for $2,000 of civil penalties does not transform it into a real party in interest. *See Cavicchia*, 311 F. Supp. at 155 ("[T]he mere fact that the state has some pecuniary or beneficial interest in the matter is not conclusive.").

IV. THIS COURT HAS SUPPLEMENTAL JURISDICTION OVER ANY REMAINING CLAIMS

73. As an initial matter, this Court has jurisdiction over the entire case because Mr. Kramer has properly invoked the federal officer removal statute.

[9] *See* Exchange Act Sections 21(d)(3), (d)(5), and 21(d)(7) [15 U.S.C. § 78u(d)(3),(d)(5), and (d)(7)].

[10] *Compare* Section 21A of the Exchange Act [15 U.S.C. § 78u-1] (civil monetary penalties), *with* N.Y. C.P.L.R. § 8303(a)(6).

74. Alternatively, supplemental jurisdiction exists over any of the NYAG's remaining claims pursuant to 28 U.S.C. § 1367(a). *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 559, 563 (2005). Supplemental jurisdiction can be extended to state law claims that are "so related to claims in the action within [the court's] original jurisdiction that they form part of the same case or controversy." 28 U.S.C. § 1367(a). Claims are part of the same case or controversy when both the state law claims and federal claims "'derive from a common nucleus of operative fact.'" *Briarpatch Ltd., L.P. v. Phoenix Pictures, Inc.*, 373 F.3d 296, 308 (2d Cir. 2004) (citation omitted).

V. ALL OTHER REMOVAL REQUIREMENTS ARE MET

75. This Notice of Removal is timely and properly filed pursuant to 28 U.S.C. § 1446(b). Mr. Kramer was served with the Complaint on January 15, 2026. Mr. Kramer has filed this Notice of Removal within thirty days of the date of service. *See* 28 U.S.C. § 1446(b)(2)(B).

76. A copy of all process, pleadings, and orders served upon Defendant, including the Summons and the Complaint, are attached hereto as Exhibit A. 28 U.S.C. § 1446(a). No other process, pleadings, or orders in this Action have been served on Defendant other than those included in Exhibit A.

77. Mr. Kramer is the only defendant in the Action. Accordingly, consent to removal is not necessary. *See id.* § 1446(b)(2). Consent to removal is also not required because this case is removed under section 1442, among other things. *See Ely Valley Mines, Inc. v. Hartford Accident & Indemn. Co.*, 644 F.2d 1310, 1315 (9th Cir. 1981) (removal under 28 U.S.C. § 1442(a)(1) does not require all defendants agree to removal).

78. By filing this Notice of Removal, Defendant does not waive any defenses it has to this action, whether in state or federal court. Defendant reserves the right to amend or supplement this Notice of Removal.

79. This Notice of Removal is not intended and should not be construed as constituting the general appearance or appearance on the merits of Mr. Kramer in this matter.

80. Promptly upon the filing of this Notice of Removal, Defendant shall file a copy with the Clerk of the New York County Supreme Court and serve a copy upon all parties.

VI. DEMAND FOR JURY TRIAL

81. Mr. Kramer hereby demands a jury trial on all claims and issues so triable. Fed. R. Civ. P. 81(c).

CONCLUSION

For the reasons stated, this action is removable to this Court pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1441, 1442, and 1446, and this Court may exercise jurisdiction over this entire matter pursuant to 28 U.S.C. §§ 1331, 1367, and 1442(a)(1).

WHEREFORE, Mr. Kramer gives notice that the matter bearing Index No. 450441/2026, pending in the New York County Supreme Court, is removed to the United States District Court for the Southern District of New York, and requests that this Court retain jurisdiction for all further proceedings in this matter.

Dated: Washington, DC
February 4, 2026

Respectfully submitted,

/s/ Kirby D. Behre
Kirby Behre (*pro hac vice filed concurrently)*
kbehre@milchev.com
MILLER & CHEVALIER CHARTERED
900 16th Street Northwest
Washington, DC 20006
Telephone: (202) 626-5960
Facsimile: (202) 626-5801
Alexandria M. Westbrook (*pro hac vice forthcoming*)
awestbrook@milchev.com
Telephone: (202) 626-6049

Roland G. Riopelle (NYSB #2068161)
rriopelle@sercarzandriopelle.com
SERCARZ & RIOPELLE, LLP
950 Third Avenue, 31st Floor
New York, NY 10022
Telephone: (212) 586-4900
Facsimile: (212) 586-1234

Attorneys for Defendant Robert G. Kramer

Exhibit A

Exhibit A-1

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York Plaintiff, - against – Robert G. Kramer, Defendant	**SUMMONS** Index number:

TO THE ABOVE-NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the Plaintiff(s) herein and to serve a copy of your answer on the Plaintiff(s) at the address indicated below within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the place of trial.

Venue in New York County is proper pursuant to C.P.L.R. § 503 because OAG's office is located in this county.

Dated: New York, New York
January 15, 2026

LETITIA JAMES
Attorney General of the State of New York

By: _____
T. Austin Brown,
Assistant Attorney General
Investor Protection Bureau
28 Liberty Street
New York, New York 10005
(646) 643-3021
thomasaustin.brown@ag.ny.gov
Counsel for the People of the State of New York

TO:
[redacted]

Exhibit A-2

SUPREME COURT OF THE STATE OF NEW YORK

NEW YORK COUNTY

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York Plaintiff, - against – Robert G. Kramer, Defendant	**COMPLAINT** Index number:

Plaintiff, People of the State of New York, by its attorney, Letitia James, Attorney General of the State of New York ("OAG" or "Plaintiff"), alleges as follows against Defendant Robert G. Kramer ("Kramer" or "Defendant Kramer"):

NATURE OF THE ACTION

1. In the midst of the COVID-19 crisis, Defendant Kramer, the then-CEO of Emergent BioSolutions Inc. ("Emergent"), engaged in illegal insider trading of Emergent stock. Kramer entered into the illegal trades while in possession of material nonpublic information regarding serious and unresolved contamination issues Emergent faced in manufacturing COVID-19 vaccine drug substance for AstraZeneca PLC ("AstraZeneca").

2. Kramer sold over $10 million worth of Emergent stock while the contamination and production problems remained undisclosed to the public and just days before the stock's price began a steady decline following analyst concerns about production.

3. Operation Warp Speed was an effort by the U.S. government to support the rapid development of COVID-19 vaccine candidates. On June 1, 2020, Emergent joined the federal government's effort by committing space in Emergent's plant located in Bayview, Maryland, to

support the rapid development and distribution of COVID-19 vaccines. Emergent also entered into lucrative partnerships with both AstraZeneca and Johnson & Johnson to produce drug substance for the companies' COVID-19 vaccine candidates.

4. On June 11, 2020, Emergent publicly announced an agreement, valued at $87 million, to provide development and manufacturing services for AstraZeneca's COVID-19 vaccine candidate, ChAdOxl nCOV-19 (AZD1222) (the "Product" or "AZD1222"), at Emergent's Bayview facility.

5. On July 27, 2020, Emergent announced a second contract with AstraZeneca, publicly valued at $174 million, which provided for contract development and manufacturing ("CDMO") services for vaccine drug substance production by Emergent between July 2020 and June 2021 at large scale for commercial supply. Emergent's two contracts with AstraZeneca were worth a combined value of $261 million.[1]

6. In the week following Emergent's announcement of its CDMO contract with AstraZeneca, Emergent's stock price climbed 29.5%, going from $94.78 on July 27, 2020, to close at $134.46 on August 5, 2020.

7. As development of the manufacturing process progressed over the fall of 2020, Emergent experienced serious manufacturing difficulties, particularly with contamination of AZD1222. Specifically, Emergent discovered excess bioburden (bacteria) and elevated endotoxin (a type of toxin released by bacteria) in multiple drug substance batches, as early as

[1] The manufacturing and production contracts Emergent secured with AstraZeneca were its second foray into manufacturing a COVID-19 vaccine substance. On April 23, 2020, prior to the U.S. government's announcement of Operation Warp Speed, Emergent secured a contract to manufacture vaccine substance for Johnson & Johnson also at Emergent's Bayview facility. On July 2, 2020, the parties entered into a second large scale drug substance manufacturing agreement which expanded the term of the agreement and was valued at more than $480 million. The two vaccines would later become cross-contaminated.

September 26, 2020. Kramer, as CEO, knew of the contamination at least as early as October 6, 2020.

8. In early October, these contamination issues led to the rejection and destruction of multiple batches of vaccine drug substance, each containing potentially millions of dose-equivalents of vaccine.

9. Because of the serious, continuing and unresolved contamination, Emergent and AstraZeneca agreed to pause production of AZD1222 to investigate the root cause, and ultimately aborted, rejected or destroyed multiple batches. These manufacturing issues led to Emergent's inability to meet the rapid production schedule anticipated in its contracts with AstraZeneca.

10. In mid-October 2020, shortly after learning of the contamination problems at Emergent, Defendant Kramer asked his investment adviser to complete a Rule 10b5-1 stock trading plan (the "Trading Plan") which would allow Kramer to exercise stock options and simultaneously sell the acquired shares. Kramer had not implemented such a Trading Plan since 2016.

11. On November 13, 2020, while Emergent was in an all-hands-on-deck manufacturing crisis and still in the midst of an internal investigation of the unresolved contamination and manufacturing problems that had not been disclosed to the public, Defendant Kramer finalized and entered into the Trading Plan. The terms of the Trading Plan required the immediate sale of shares upon Emergent's stock reaching a preset price.

12. The Martin Act, New York General Business Law § 352 *et seq.*, forbids fraudulent practices, including the trading of stock by company insiders in possession of material nonpublic information. No statute, rule or law permits Rule 10b5-1 trading plans to be used as a

way of evading insider trading laws when an insider is aware of material nonpublic information at the time the trading plan is adopted.

13. Defendant Kramer realized proceeds of $10,121,079.50 on the sale of Emergent stock under his Trading Plan. On January 15, January 20, January 21 and February 8, 2021, Defendant Kramer exercised various Emergent stock options to purchase Emergent stock at prices ranging from $25.62 to $30.86 per share. Pursuant to the Trading Plan, Defendant Kramer then immediately sold multiple lots of the shares he had acquired. Kramer sold 19,026 shares on January 15, then sold 2,232 shares on January 20, another 21,900 shares on January 21, followed by the sale of an additional 45,397 shares on February 8, 2021. These Emergent stock sales were consummated at weighted average sales prices ranging between approximately $106 and $120 per share, significantly higher than Kramer's purchase price.

14. Shortly after Kramer completed these sales of stock on February 8, 2021, information about some of Emergent's struggles was revealed to the public. After reaching a high of $125.19 per share on February 12, 2021, Emergent's stock price began a steady decline from which it has not recovered. As of the date of this filing, Emergent stock currently trades at approximately $12 per share.

15. Defendant Kramer's actions violated the Martin Act.

PARTIES

16. Plaintiff is the People of the State of New York, represented by Letitia James, Attorney General of the State of New York, and is authorized to bring this action in the name and on behalf of the People of the State of New York pursuant to the Martin Act.

17. Defendant Kramer was employed by Emergent for more than two decades in multiple roles. He joined Emergent as its Chief Financial Officer in 1999. In that role, he was

responsible for financial accounting and reporting, budgeting and analysis, and investor relations. From March 2018 to April 2019, Defendant Kramer was Emergent's Chief Operating Officer, responsible for supervising manufacturing operations, among other duties. Defendant Kramer became the CEO of Emergent on April 1, 2019. As CEO, Defendant Kramer was responsible for management of the entire company. Kramer retired from Emergent on August 1, 2023.

JURISDICTION AND VENUE

18. This Court has jurisdiction over the subject matter of this action, jurisdiction over Defendant Kramer, and authority to grant the relief requested pursuant to the Martin Act.

19. The Martin Act authorizes the Attorney General to commence a civil action for restitution, disgorgement and other relief against any person or corporation engaging or participating in fraudulent practices in the issuance, exchange, purchase, sale, promotion, negotiation, advertisement, investment advice, or distribution of securities or commodities within or from New York State.

20. The transactions complained of were arranged and executed for Kramer by Defendant Kramer's investment adviser, Merrill Lynch, on the New York Stock Exchange through its block trading desk in New York. The stock sales at issue were made pursuant to a Trading Plan which provided that it be governed by New York law. On November 13, 2020, Defendant Kramer signed the Trading Plan and agreed that his transactions were governed by New York law.

21. New York investors, including New York State employee retirement funds, bought, sold, and held hundreds of thousands of shares in Emergent stock during the relevant period.

22. Pursuant to C.P.L.R. 503, venue is proper in New York County because Plaintiff's office is located in this county.

FACTUAL ALLEGATIONS

A. Emergent Secures and Publicizes Multimillion Dollar Contracts from AstraZeneca

23. In light of the COVID-19 emergency, the federal government announced Operation Warp Speed on May 15, 2020, with the goal of coordinating efforts in the public and private sectors to get vaccines for the coronavirus produced and approved as quickly as possible.

24. One week later, on May 21, 2020, AstraZeneca, a multinational pharmaceutical company headquartered in Cambridge, United Kingdom, announced its vaccine candidate, AZD1222.

25. On June 10, 2020, AstraZeneca and Emergent entered into a Master Services Agreement pursuant to which Emergent would produce bulk drug substance for AZD1222.

26. On June 11, 2020, Emergent issued a press release announcing the agreement to support the manufacturing of AZD1222.[2]

27. Emergent's Form 8-K filed with the SEC on June 11, 2020, stated that "[o]n June 10, 2020, Emergent entered into an agreement with AstraZeneca to provide CDMO services, technology transfer, analytical testing, drug substance process and performance qualification and will reserve certain large-scale manufacturing capacity through 2020." In the press release, Emergent valued the agreement at approximately $87 million.

28. On July 24, 2020, Emergent and AstraZeneca entered into a Master Services Agreement to produce drug substance at large scale for commercial supply. On that same date,

[2] https://www.emergentbiosolutions.com/press/news-release-details-emergent-biosolutions-signs-agreement-be-us-manufacturing-0/

the parties also agreed on a Manufacturing Product Schedule and Work Order for the large-scale manufacturing of AZD1222.

29. On July 27, 2020, Emergent issued a press release announcing that it had signed a COVID-19 vaccine manufacturing agreement with AstraZeneca pursuant to which "Emergent will provide contract development and manufacturing services beginning in 2020 to produce drug substance at large scale for commercial supply." In the press release, Emergent also announced that the "Agreement is valued at approximately $174 million through 2021 and brings the total AstraZeneca commitment to $261 million."

30. In response to the announcements, Emergent's stock price almost doubled in price, increasing from a low of $68.11 on June 11, 2020, to a high of $134.46 on August 5, 2020.

31. Pursuant to the Manufacturing Product Schedule and Work Order dated July 24, 2020, Emergent agreed to manufacture up to 95 vaccine drug substance batches by April 30, 2021, and 120 batches by June 30, 2021. Each batch contained several million dose-equivalents of COVID-19 vaccine drug substance. The expected production schedule called for up to 15 batches (12 initial, 3 additional) of AZD1222 at Emergent's Bayview, Maryland, manufacturing facility, Area 1[3], from July 1 through November 30, 2020. The expected production schedule included the manufacture of up to 80 batches of AZD1222 (32 initial, 48 additional) at Bayview Area 3 from September 1, 2020, through April 30, 2021, and 25 additional batches in Area 3 from May 1 through June 30, 2021.

32. Emergent's November 19, 2020, CDMO Executive Management Team Budget Review projected 79 batches of AZD1222 in 2021 for revenue of $158 million.

[3] Emergent's manufacture of AstraZeneca and Johnson & Johnson's COVID-19 vaccine candidates was scheduled to take place in separate areas within Emergent's Bayview facility.

B. Emergent's Manufacture of AZD1222 Suffers from Early Microbial Contamination

33. Emergent's production, manufacture and quality control of AZD1222 was led by Sean Kirk ("Kirk"), Executive Vice President, Manufacturing and Technical Operations, and Adam Havey ("Havey"), Executive Vice President and Chief Operating Officer. Both Kirk and Havey reported directly to Defendant Kramer and kept him apprised of Emergent's progress.

34. During this time, Defendant Kramer, who resided in Michigan, spent five weeks at a time onsite at Bayview. Kramer received regular updates from his direct reports, including Kirk and Havey. Kramer spoke to Kirk on a near daily basis and spoke to Havey multiple times per week during Operation Warp Speed. Kramer additionally held separate one-on-one meetings with Kirk and Havey on at least a weekly basis.

35. As a matter of safety, pharmaceutical products generally undergo bacterial contamination tests including for endotoxin (toxic components of bacteria which can cause dangerous reactions) and bioburden (bacterial colonies). These tests ensure the safety and usability of pharmaceuticals, including vaccines. Tests that exceed certain levels can trigger "alerts" or "alarms," and result in the destruction of pharmaceutical or vaccine drug substance batches.

36. On or about September 26, 2020, Emergent began noticing indices of contamination in its production of AZD1222, including elevated levels of endotoxin and excess bioburden.

37. On or about October 1, 2020, Emergent began an investigation into "initial indications of microbial contamination" in the early batches of AZD1222.

38. On October 2, 2020, following procedures defined by the U.S. Food & Drug Administration ("FDA") for quality management, Emergent discovered a deviation[4] in its vaccine manufacturing process that it classified as "Critical." The deviation related to an "endotoxin event" on the same date. In the context of FDA manufacturing rules, critical deviations mean that a batch of drug substance is likely unusable. 21 U.S.C.S. § 331(a) and 21 C.F.R. § 210.1.

39. Kirk and Havey met with AstraZeneca at least once a week to discuss Emergent's progress in successfully manufacturing AZD1222. They also frequently had larger meetings with AstraZeneca which included Emergent's partners in the federal government.

40. On October 5, 2020, during a regularly scheduled weekly meeting to review the progress of the COVID-19 project, Emergent notified the U.S. government's Biomedical Advance Research and Development Authority ("BARDA"), a Department of Health and Human Services ("HHS") working group that was involved in the management of Operation Warp Speed, that Emergent had aborted two batches of AZD1222. Each aborted batch meant the destruction of millions of dose-equivalents of vaccine drug substance.

41. On October 6, 2020, Kirk provided Defendant Kramer with a copy of a PowerPoint presentation, including slides about the aborted, contaminated batches discussed at the previous day's meeting.

42. On October 13, 2020, key managers and employees working for both Emergent and AstraZeneca concluded that five out of the first seven batches of AZD1222 produced by Emergent were likely to be lost to contamination due to alarm level tests for endotoxin and

[4] A deviation is a term in FDA-regulated industries defined as follows: "Discrepancy – Datum or result outside of the expected range; an unfulfilled requirement; may be called non-conformity, defect, deviation, out-of-specification, out-of-limit, out-of-trend" https://www.fda.gov/media/71023/download

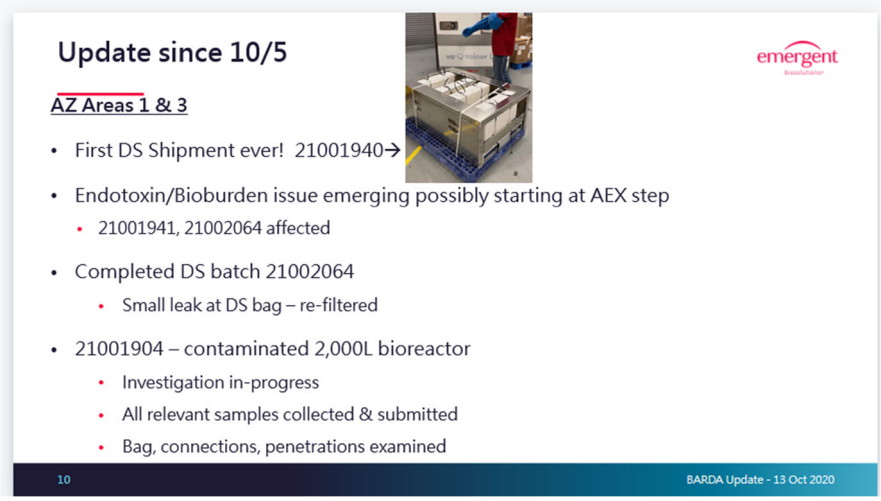
bioburden (tests that indicated the presence of unacceptably high levels of toxic bacteria), and discussed the possible need to stop manufacturing in order to investigate the cause of the contamination.

43. That same day, Emergent's Quality Assurance Chief sent an email to Havey stating ". . . [W]e're likely to lose 5 of 7 batches to date due to contamination issues . . . . My question is if we need to stop production to investigate [the ongoing contamination issue]."

44. On October 13, 2020, Kirk emailed senior leadership at AstraZeneca saying that Emergent had "all hands on deck to evaluate the current challenges …". An AstraZeneca EVP replied: "The situation is indeed worrisome and we are very concerned."

45. On October 13, 2020, Kirk also told Defendant Kramer that he worried that the concerning bioburden test results would likely be discussed in a meeting later that day with AstraZeneca and BARDA. Later in the day, Kirk sent Defendant Kramer an email stating "Bob, Drawing your attention to Slide 10. Couple of issues last week. I can cover in today…with [BARDA] meeting if they come up. The bioburden issue may create some tension between us and [AstraZeneca] and could require a process change…."

46. Slide 10, labeled "Update since 10/5", notes some of the contamination identified as of October 13, 2020:



47. The following day, on October 14, 2020, in response to an email from an AstraZeneca employee regarding agenda items for an October 16, 2020, weekly BARDA meeting, an expert at HHS sent an email to AstraZeneca requesting the addition of the following new agenda item: "the QC [quality control] testing model provided by Emergent and proposed strategy related to downstream endotoxin failures."

48. On October 15, 2020, a member of the AstraZeneca team replied to HHS's expert and requested Emergent's participation in the discussion regarding its quality control and proposed strategy for handling its endotoxin failures.

49. Because of the serious, unresolved contamination problems, Emergent and AstraZeneca agreed to pause production of multiple batches of AZD1222, each containing up to millions of dose-equivalents of vaccine drug substance, and multiple batches were ultimately aborted or rejected and destroyed.

C. In the Midst of Serious, Undisclosed Contamination Issues, Defendant Kramer Pursued a Rule 10b5-1 Trading Plan

50. In mid-October, with knowledge of the destruction of multiple batches of AZD1222 due to contamination issues and after an internal investigation was underway,

Defendant Kramer sought to exercise his Emergent stock options to purchase stock and then immediately sell it off.

51. As part of Kramer's compensation and incentive package, he regularly received options to purchase shares of Emergent stock. In October 2020, Kramer held 231,764 options to purchase Emergent stock at exercise prices ranging from $25.62 to $61.44.

52. On Sunday October 11, 2020, Defendant Kramer called and spoke to his investment adviser at Merrill Lynch. He asked him about entering into the Trading Plan to sell Emergent stock.

53. On October 12, 2020, Defendant Kramer sent an email to his investment adviser with a summary of his stock options saying: "Please review and lets [*sic*] discuss the best way to incorporate this into my portfolio investment planning."

54. On October 14, 2020, in a scheduled call, Defendant Kramer again spoke with his investment adviser to discuss drafting a Rule 10b5-1 plan.

55. On October 16, 2020, Defendant Kramer and his investment adviser again had a phone conversation where they discussed the Trading Plan, including the type of equity awards that could be covered under the plan and the limit price.

56. On October 20, 2020, Merrill Lynch sent Defendant Kramer a draft of the Trading Plan. Under the draft Trading Plan, once a 60 day 'cooling-off' period after signing the Trading Plan had passed, Defendant Kramer would exercise his options and sell the stock when the price was greater than $100. At the time of drafting the Trading Plan, the price of Emergent stock was approximately $100, and had traded at over $111 a few days prior.

D. Emergent's Contamination Problem Intensifies at the End of October

57. Defendant Kramer was fully aware of the escalating manufacturing problems. Kirk and Havey, reporting directly to Defendant Kramer, met and spoke regularly with Kramer throughout the investigation into the contamination problems and kept Kramer fully apprised of the continuing and unresolved problems at Emergent's Bayview facility where AZD1222 was being manufactured.

58. Defendant Kramer's handwritten diary from October 21, 2020, notes "at scale contamination," "bioburden/endotoxin," "pushing for downstream filtration step," and that "AZ has resisted."

59. On October 23, 2020, an AstraZeneca SVP emailed Kirk and stated: "The situation is clearly deeply concerning as [also] the most recent batch has endotoxin/Bio hits and my understanding is that we now have found it in the buffer solution. This really makes me concerned that we may have a bigger and more systematic issue at the Site . . . ."

60. The same day, an AstraZeneca EVP emailed Kirk stating: "We remain very concerned and sincerely hope that EBS [Emergent] can turn this around rapidly . . . . While I understand your point on the speed of what we are doing, I must share that others in our partner network have performed more reliably to date. We are simply nervous that the US supply chain is falling behind."

61. The increasing concerns about contamination led to a "Senior Leader Call" that included Kirk and Havey, the AstraZeneca SVP, and representatives of BARDA, where AstraZeneca executives expressed "concerns at a number of levels" about "Emergent's ability to meet our expectations (and commitments.)"

62. On October 25, 2020, Kirk texted Havey complaining that "Issues keep piling up. This was last night. The AZ meeting is 8:30am on Tuesday at bayview. They asked to do a gemba[5] walk and I said 'no'."

63. During a meeting that took place the following day on October 26, 2020, a slide from a COVID-19 Projects Update PowerPoint presentation highlighted multiple vaccine batches as "late, can't recover," and contained a revised manufacturing schedule identifying the number of batches that were reduced in 2020 and early 2021.

64. On the morning of October 26, 2020, Kirk texted Havey and told Havey that he had given Defendant Kramer the "full landscape."

65. As Emergent's CEO, Defendant Kramer was aware of Emergent's continuing contamination problems and understood that the U.S. government was expressing concern about the ability of Emergent to implement AstraZeneca's process in accordance with Operation Warp Speed.

E. Emergent Promoted the AstraZeneca Contracts in SEC Filings and Analyst Calls but Failed to Disclose the Serious, Unresolved Contamination Issues

66. On November 6, 2020, Emergent filed its 3Q2020 10-Q quarterly report with the SEC which touted its contracts for the production of AZD1222 but omitted any mention of Emergent's serious and unresolved manufacturing and contamination problems with AZD1222.

67. Defendant Kramer concealed Emergent's problems during Emergent's 3Q2020 analyst earnings call on November 5, 2020. Specifically, Defendant Kramer told analysts that Emergent had met the goal of establishing the manufacturing process for its COVID-19 vaccine contracts with both AstraZeneca and Johnson & Johnson, stating "…we were to have established

[5] A Gemba Walk is a business term derived from Japanese crime fiction; "genba" meaning "the actual place", where management walks the "crime scene" looking for the source of the problems.

a large-scale manufacturing infrastructure and tech-transfer their candidates to this infrastructure to our Bayview facility outside of Baltimore during 2020 and early into 2021, and that is essentially complete. The second commitment of obligation, if you will, is to manufacture and supply drug substance to their vaccine candidates in support of their global supply chain goals..."

68. Defendant Kramer also responded to questions regarding Emergent's overall procurement and contracting outlook without acknowledging the existence of any problems, including the ongoing unresolved bioburden and endotoxin contamination problems, the rejected and destroyed vaccine drug substance batches, manufacturing delays, or their impact on the vaccine drug substance production schedule.

69. At the time of Defendant Kramer's statements on November 5, 2020, Emergent had not yet successfully completed what is known as a Process Performance Qualification ("PPQ") batch—a successful batch of drug substance according to a replicable set of procedures that will produce successful batches without further changes—of AZD1222. Without a PPQ batch, the tech transfer process was not complete, the FDA could not issue an authorization, and Emergent was not prepared to begin manufacturing commercial batches of AZD1222.

F. In Early November, the Contamination Issue Remained Unresolved

70. At the beginning of November 2020, at AstraZeneca's urging, Emergent initiated a "war room" approach to its bioburden investigation.

71. On Friday, November 6, 2020, Kirk complained in a group text that Emergent's failures to take promised actions and deliver results was hurting Emergent's relationship with AstraZeneca, stating "If we don't get more active on the floor leadership dealing with this stuff then we are doomed from a credibility perspective. We are currently at a significant relational deficit with AZ and need to get aggressive to get out of this hole."

72. On Saturday November 7, 2020, as Emergent staff were still working through the weekend and overwhelmed by the number of problematic test results, Kirk exchanged the following texts with Havey expressing his concern over the situation:

> Sean Kirk <[redacted phone number]>
> 2020-11-07T09:51:26.0000000Z
> Endotoxin hits throughout ppq 1 in area 1. This is in addition to the endotoxin hit we got on the first run in area 3. Call with AZ is at noon. Word is they are going to tell us they want to come in Monday and assess our overall operational readiness.
>
> Havey, Adam <[redacted phone number]>
> 2020-11-07T10:01:21.0000000Z
> What's your position?
>
> Havey, Adam <[redacted phone number]>
> 2020-11-07T10:01:31.0000000Z
> What are mike and Sue saying?
>
> Sean Kirk <[redacted phone number]>
> 2020-11-07T10:13:20.0000000Z
> We have a prep call at 11. I'm not sure I have a position. it's not like I can't tell them they can't come with all the concerns they have
>
> Havey, Adam <[redacted phone number]>
> 2020-11-07T10:13:42.0000000Z
> Understood
>
> Havey, Adam <[redacted phone number]>
> 2020-11-07T10:14:12.0000000Z
> The area 1 hits are concerning...
>
> Sean Kirk <[redacted phone number]>
> 2020-11-07T10:25:12.0000000Z
> At this point everything is concerning. Like fighting the Chinese army
>
> Havey, Adam <[redacted phone number]>
> 2020-11-07T10:38:50.0000000Z
> Sorry, I wasn't trying to pile on or be glib. I was just thinking out loud

73. On Saturday November 7, 2020, senior AstraZeneca executives spoke with members of the Emergent Executive Management Team and expressed their concerns about the lack of progress in resolving the bioburden contamination problem. Emergent understood that

the situation at that time was urgent and severe. In an internal AstraZeneca email summarizing the meeting, one AstraZeneca manager said: "We where [*sic*] very clear with them that we need to see a totally different level of senior leadership from their side from now on and that we are bringing in the cavalry in form of our most experienced SME-s/Leaders…"

74. Over the course of the weekend, AstraZeneca management suggested to Kirk and others at Emergent that production be halted and the schedule slowed down while Emergent continued to investigate the source of the contamination, so as not to lose additional batches of vaccine.

75. Defendant Kramer was aware of the escalating situation. On Sunday November 8, 2020, Kirk texted Defendant Kramer to update him on conversations Kirk had with AstraZeneca's leadership and with BARDA over the weekend and notifying Kramer that he may be receiving a call regarding same:

> Sean Kirk <[redacted phone number] (IMessage)>
>
> Bob sorry to bother you but could you please give me a call when you have a couple minutes. Would like to update you on some conversations with AstraZeneca leadership and Ba[r]da this weekend. You make it a call from [G]eneral Perna [head of BARDA] so I wanted to give you an update in the event that happens

76. On Monday, November 9, 2020, Defendant Kramer texted Kirk about the pressure they were under:

> Kramer, Robert <[redacted phone number]>
> 2020-11-09T14:59:42.0000000Z
> Let's talk before our call with Perna. I'm open until 4:30 PM.
>
> Sean Kirk <[redacted phone number]>
> 2020-11-09T15:05:53.0000000Z
> I will call at 4 or just before. Having a challenging day. Ows/ barda asking for me to run bayview full time
>
> Kramer, Robert <[redacted phone number]>

2020-11-09T15:11:55.0000000Z
I know, I spoke to Adam.

Sean Kirk <[redacted phone number]>
2020-11-09T16:40:55.0000000Z
Az presented it as their gift to us to slow down. Such bullshit.

Kramer, Robert <[redacted phone number]>
2020-11-09T16:41:30.0000000Z
For sure.

77. By November 10, 2020, Emergent and AstraZeneca had agreed to slow down production and come up with a plan to implement the slowdown, which ultimately included removing three batches from the schedule to further investigate and implement corrective actions.

78. On November 13, 2020, the federal government, AstraZeneca, and Emergent held yet another meeting. A slide from a PowerPoint presentation shown at the meeting discussed the possible source of the endotoxin:

> Endotoxin still present in the downstream process consistent with bioburden proliferation. The endotoxin would be expected to be a result of gram-negative organism in the process. The endotoxin is most likely the result of gram-negative bacteria disruption during the process. This could be organisms introduced and or established in a specific unit operation.

79. As of November 13, 2020, while the endotoxin contamination was attributed to toxic gram-negative bacteria, neither the root cause of the problem nor any solution had yet been established.

G. In the Midst of Unresolved and Worsening AZD1222 Contamination and Manufacturing Problems, Defendant Kramer Executed His Trading Plan

80. While the undisclosed concerns over the persistent contamination problems remained, even to the point of instituting a manufacturing slowdown, Defendant Kramer continued to push forward to finalize his Trading Plan.

81. Emergent's persistent and serious contamination problems and the loss of multiple batches of AZD1222, along with ongoing difficulties in implementing various manufacturing process changes and the impact of these circumstances on Emergent's drug substance manufacturing capability and production schedule, were all material nonpublic information associated with serious risks to Emergent's CDMO business, its reputation and its stock price.

82. On Sunday, November 8, 2020, Defendant Kramer, after being informed of the escalating contamination and manufacturing concerns, reached out again to his investment adviser at Merrill Lynch to ensure the rapid finalization of his Trading Plan.

83. On Monday, November 9, 2020, the same day Defendant Kramer texted with Kirk about AstraZeneca's request for a slowdown of production, Kramer once again called his investment adviser. The investment adviser then sent an email to Emergent Senior Counsel requesting an update on Kramer's vesting schedule and asked him to review the Trading Plan.

84. The next day Emergent and AstraZeneca agreed to slow down production of the vaccine substance.

85. Kramer signed the Trading Plan on November 13, 2020. It became effective that same day.

86. According to Emergent's insider trading blackout calendar, for those not in possession of material nonpublic information, a window was open for placing trades from November 10 to December 17, 2020. Kramer chose to execute the Trading Plan at the beginning of the window, triggering an early date for commencement of a cooling-off period, and an early date for initiation of trades under the Trading Plan.

87. Defendant Kramer entered into the Trading Plan while in possession of material nonpublic information regarding the existence of ongoing serious and unresolved contamination and manufacturing problems impacting an important business unit. Kramer enacted the Trading Plan before the public learned of these serious problems and ultimately traded before the material nonpublic information was disclosed and the stock price fell.

H. The Contamination Problem Continues

88. On November 14, 2020, the day after Kramer's Trading Plan became effective, Emergent and AstraZeneca slowed down Emergent's production timeline to identify and correct the ongoing contamination problem.

89. On November 18, 2020, while bioburden and endotoxin were still appearing in Emergent's Bayview Facility Area 1, a new problem of mold contamination appeared in Emergent's Bayview Facility Area 3.

90. By November 30, 2020, Emergent had failed to meet initial expectations for production of AZD1222. Emergent's original Manufacturing Product Schedule and Work Order set forth an expectation that Emergent would manufacture up to 15 batches of AZD1222 from July 1 through November 30, 2020, in Emergent's Bayview facility Area 1. However, only a single batch was successfully completed in that period.

91. On December 3, 2020, after the appearance of additional contamination, and the failure of additional vaccine batches, Kirk emailed Havey and other Emergent executives the following:

> If we are shutting down Area 3 manufacturing, we will need to be careful with messaging here and make sure we [are] clear on action and path forward with lens of "warp speed manufacturing" meaning that we are taking risks and conditionally releasing supplies through BDS every day with the intent of downstream releasing and defending use of produced material. *Given the*

> *challenges to date, it is not beyond possibility that AZ could cancel our contract given that they have other suppliers on line, therefore messaging is critical*.
>
> (Emphasis added.)

92. The next day, on December 4, 2020, Emergent formally notified AstraZeneca that it had rejected five more batches of AZD1222 due to a "business decision" (made in November) to allow time for Emergent to make changes to mitigate microbial contamination.

93. On December 26, 2020, Havey texted other Emergent executives that "[t]here will be no CDMO business with these big pharma companies now or later if we keep losing batches."

94. On January 14, 2021, Emergent aborted another batch of AZD1222 due to contamination.

95. Between October 2020 and February 2021, Emergent aborted or rejected 14 batches of AZD1222 due to the microbial contamination problem. This translated into the loss of potentially 35-40 million dose-equivalents of AZD1222. While the initial contract provided for up to 95 batches by April 30, Emergent only delivered a fraction of the expected production.

I. Defendant Kramer Sells Emergent Stock Pursuant to His Trading Plan

96. On January 15, 2021, the first set of Defendant Kramer's planned stock sales pursuant to his Trading Plan was executed by Merrill Lynch's New York office on the New York Stock Exchange. Kramer acquired 19,026 shares of Emergent through the exercise of stock options at an exercise price of $25.62 and immediately sold those shares at a weighted average sale price of $106.0076. The stock sale yielded proceeds of $2,016,900.60 for Defendant Kramer.

97. On January 20, 2021, Merrill Lynch executed another round of transactions pursuant to Defendant Kramer's Trading Plan. Kramer acquired 2,232 shares of Emergent stock

through the exercise of stock options at a price of $26.45 and immediately sold those shares at a weighted average sale price of $110.00. These stock sales yielded additional proceeds of $245,520.00 for Defendant Kramer.

98. On January 21, 2021, Merrill Lynch executed another round of transactions pursuant to Defendant Kramer's Trading Plan. Kramer acquired 21,900 shares of Emergent stock through the exercise of stock options at $26.45 and immediately sold those shares at a weighted average sale price of $110.03. These stock sales yielded additional proceeds of $2,409,657.00 for Defendant Kramer.

99. In the face of these massive gains, on January 22, 2021, Defendant Kramer called his investment adviser "out of the blue" and said that he was thinking of cancelling his Trading Plan. The investment adviser said that it "was generally frowned upon to do so." Defendant Kramer ultimately did not cancel the Trading Plan.

100. On February 8, 2021, in yet another series of transactions, Defendant Kramer acquired an additional 45,397 shares of Emergent stock through the exercise of options in two tranches, 32,397 shares at a price of $30.86 and 13,000 shares at a price of $30.63 and immediately sold those shares pursuant to his Trading Plan at a weighted average sale price of $120.03 per share. These stock sales yielded further proceeds of $5,449,001.91 for Defendant Kramer.

101. Defendant Kramer's total proceeds from his sales of Emergent stock were $10,121,079.50.

102. This table summarizes these transactions:

Trade Date	Activity Type	Quantity	Total Proceeds
1/15/2021	Sell	19,026	$2,016,900.60
1/20/2021	Sell	2,232	$245,520.00
1/21/2021	Sell	21,900	$2,409,657.00
2/8/2021	Sell	32,397	$3,888,611.91
2/8/2021	Sell	13,000	$1,560,390.00
Total		88,555	$10,121,079.50

103. The limit prices for Defendant Kramer's sales of Emergent stock under his Trading Plan were near the stock price when the Trading Plan was drafted in October 2020.

104. As illustrated in the chart below, shortly after Defendant Kramer completed his sales of stock pursuant to his Trading Plan on February 8, 2021, the market price of Emergent stock began a steady decline from which it has not recovered:

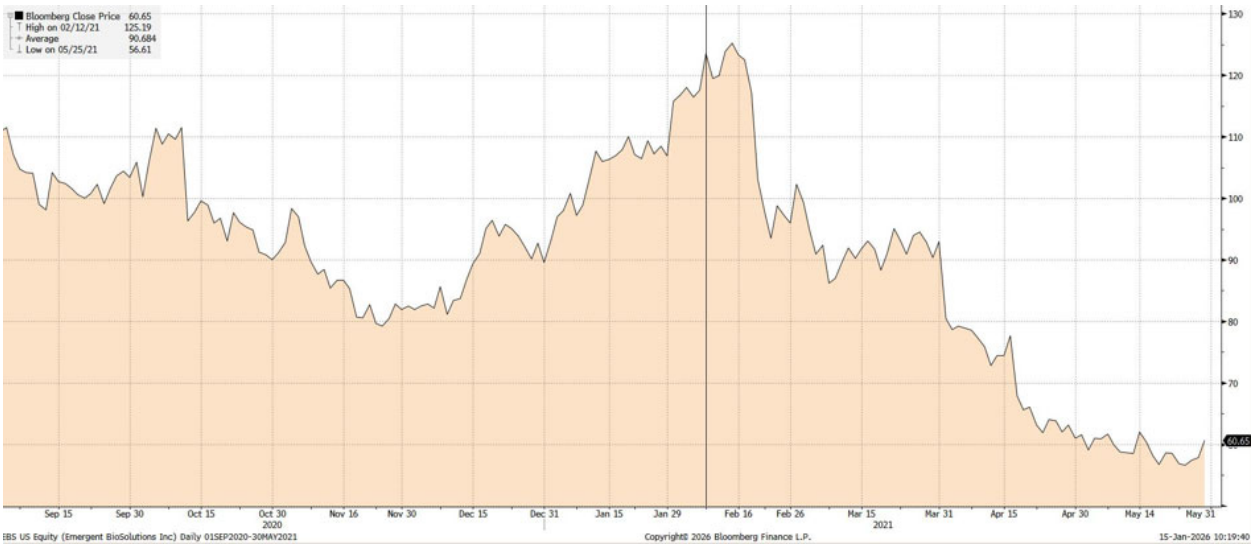


Fig 1. Chart showing Emergent's stock price at close from September 2020 to May 2021. There is a vertical bar on February 8, 2021, after which the stock's price trends steeply downward.

105. On February 18, 2021, Emergent held its final 2020 analyst earnings call to discuss its Q4 results and faced questions from analysts regarding Emergent's slow production of COVID vaccines, focusing on the Johnson & Johnson vaccine.

106. Defendant Kramer broadened the discussion to include AZD1222 but again, concealed the contamination problem:

> So just as a reminder to everyone, our two key deliverables to J&J and it goes for AstraZeneca as well as we stated before, are pretty clear. First, we were to have established a large scale manufacturing infrastructure and tech transfer their candidates to this infrastructure to our Bayview facility outside of Baltimore during 2020 and early into 2021, and that is essentially complete. The second commitment or obligation, if you will, is to manufacture and supply drug substance for their vaccine candidates in support of their global supply chain goals, which they have been pretty open about in terms of the number. And we're right online, Brandon, with doing that timing-wise, as well as capability for both J&J and AstraZeneca.

107. These statements by Defendant Kramer were materially false and misleading because Emergent was then seriously behind on the originally anticipated schedule for production of AZD1222.

108. On February 19, 2021, Emergent's stock dropped by $14.02, or 11.9%, to close at $103.04 on heavy trading volume.

109. On February 19, 2021, a member of Emergent's board of directors, emailed Defendant Kramer to ask whether there was a problem at the root of the stock's sudden decline in price—down 17.9% over the week of February 12 through February 19, 2021. Defendant Kramer responded: "There are a few concerns by investors [re earnings call last night] relating to the continuity of CDMO business. New speculation that the FDA may not approve the AZ vaccine due to significant inconsistencies in the manufacturing. It's tough to attribute anything to weakness in the share price, but I think these two are contributing to weakness."

110. These statements by Defendant Kramer underscore the significance of AZD1222 and Emergent's manufacturing difficulties to investors.

J. Subsequent Developments

111. In 2020 and early 2021, at the same time that Emergent was manufacturing AZD1222, Emergent was also manufacturing drug substance in its Bayview facility for a different COVID-19 vaccine developed by Johnson & Johnson.

112. On March 5, 2021, Johnson & Johnson detected cross-contamination in one batch of its drug substance with AZD1222. A Johnson & Johnson representative explained at a staff briefing that the cause of the contamination was that "Emergent personnel were not decontaminating properly and disposing of waste properly."

113. As a result of the Johnson & Johnson cross-contaminated batch, along with the media attention it generated, the U.S. government first required heightened supervision of the Bayview facility by Johnson & Johnson and then stopped production of AZD1222 entirely to allow Emergent to concentrate on only one vaccine process.

114. On March 6, 2021, the New York Times published an exposé on Emergent's business practices and lobbying efforts during the previous presidential administration. The article was highly critical of Emergent and accused it of using influence to consume a large portion of the nation's strategic disease prevention stockpile. While reports of difficulty with vaccine production had already brought the share price down in February, after the publication of the New York Times article, Emergent's stock price fell further by $6.37, or 6.87%, to close at $86.23 on March 8, 2021.

115. On April 12, 2021, the FDA conducted an inspection of Emergent's Bayview facility and four days later, on April 16, the FDA requested that Emergent shut down the production of AZD1222.

116. By the time Emergent ceased manufacturing of AZD1222, it had successfully completed only 28 commercially viable batches and had 13 batches in progress. This number was far below the 95 batches originally expected by the Emergent-AstraZeneca agreements through April 2021, let alone the 120 batches originally expected through June 2021.

117. Media outlets widely disseminated the news of the FDA halting production of AZD1222 beginning on April 19, 2021. Following the reports, Emergent's stock price dropped by another $12.02 from its closing price on April 16, 2021, or 15.5%, to close at $65.62 on April 20, 2021, on heavy trading volume. During the month that followed, which included the publication of another exposé from the New York Times detailing Emergent's difficulties and the FDA halting production at the Bayview facility entirely, the stock price dropped as low as $59.10.

118. Defendant Kramer was sued in 2016 for insider trading in connection with the alleged possession of material non-public information regarding Emergent's manufacture of an anthrax vaccine. Defendant Kramer's stock sales in that case were then made pursuant to a Rule 10b5-1 Plan. Defendant Kramer settled that suit in 2019.

CAUSE OF ACTION

Martin Act Securities Fraud – General Business Law § 352 and 352-c

119. The Attorney General repeats and re-alleges the paragraphs above as if fully stated herein.

120. The acts and practices of Defendant Kramer alleged herein violated General Business Law Sections 352 and 352-c, in that Defendant Kramer's actions constituted insider trading of Emergent stock while in the possession of material nonpublic information concerning serious contamination and manufacturing issues in Emergent's production of AZD1222.

121. Defendant Kramer engaged in an artifice, agreement, device or scheme to obtain money, profit or property by means prohibited by General Business Law Section 352-c.

122. Defendant Kramer engaged in a fraudulent practice under GBL Section 352 in that he employed a device, scheme or artifice to defraud or for obtaining money or property by means of a false pretense, representation or promise; employed a deception, misrepresentation, concealment, suppression, fraud, false pretense or false promise; or engaged in a practice or transaction or course of business relating to the purchase, exchange, investment advice or sale of securities or commodities which is fraudulent or in violation of law and which has operated or which would operate as a fraud upon the purchaser.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands that the Court issue an order and judgment against Defendant Kramer as follows:

A. Permanently enjoining Defendant Kramer from engaging in the fraudulent, deceptive and illegal acts alleged herein and from violating the Martin Act, New York General Business Law § 352 *et seq.*;

B. Directing Defendant Kramer to disgorge all amounts obtained in connection with or as a result of the violations of law alleged herein and all moneys obtained in connection with or as a result of the fraudulent practice alleged herein;

C. Directing Defendant Kramer to pay damages caused, directly or indirectly, by the fraudulent and deceptive acts complained of herein plus applicable pre-judgment interest;

D. Awarding costs to the State of New York of two thousand dollars against Defendant Kramer pursuant to CPLR § 8303(a)(6); and

E. Granting such other and further relief as may be just and proper.

Dated: New York, New York
January 15, 2026

LETITIA JAMES
Attorney General of the State of New York

By: _____

T. Austin Brown,
Assistant Attorney General
Investor Protection Bureau

Steven J. Glassman,
Special Counsel in Economic Justice
Economic Justice Division

Kenneth Haim,
Deputy Bureau Chief
Investor Protection Bureau

Shamiso Maswoswe,
Chief of the Investor Protection Bureau
28 Liberty Street
New York, New York 10005

Counsel for the People of the State of New York

Exhibit A-3

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
INVESTOR PROTECTION BUREAU

January 15, 2026

VIA NYSCEF

Clerk of the Court
Supreme Court of the State of New York
County of New York
60 Centre Street
New York, NY 10007

Re: *People of the State of New York v. Robert G. Kramer,*
Index No.: _____/2026, Supreme Court, New York County

Dear Clerk of the Court:

Please waive the collection of all fees for the Office of the New York State Attorney General in connection with the above-captioned matter. The Office of the Attorney General is exempt from the payment of fees pursuant to CPLR § 8017 and New York Executive Law § 161.

Sincerely,

/s/_____
T. Austin Brown,
Assistant Attorney General
Investor Protection Bureau
28 Liberty Street
New York, New York 10005

Exhibit A-4

REQUEST FOR JUDICIAL INTERVENTION

UCS-840
(rev. 12/16/2024)

Supreme COURT, COUNTY OF New York

Index No: 450441/2026 Date Index Issued: 01/15/2026

For Court Use Only:
IAS Entry Date
Judge Assigned
RJI Filed Date

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES

Plaintiff(s)/Petitioner(s)

-against-

Robert G Kramer

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check only one box and specify where indicated.

COMMERCIAL

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
- ☐ Contract
- ☐ Insurance (where insurance company is a party, except arbitration)
- ☐ UCC (includes sales and negotiable instruments)
- ☒ Other Commercial *(specify)*: Martin Act

NOTE: *For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the* ***COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)****.*

TORTS

- ☐ Asbestos
- ☐ Environmental *(specify)*:
- ☐ Medical, Dental or Podiatric Malpractice
- ☐ Motor Vehicle
- ☐ Products Liability *(specify)*:
- ☐ Other Negligence *(specify)*:
- ☐ Other Professional Malpractice *(specify)*:
- ☐ Other Tort *(specify)*:

SPECIAL PROCEEDINGS

- ☐ Child-Parent Security Act *(specify)*: ☐ Assisted Reproduction ☐ Surrogacy Agreement
- ☐ CPLR Article 75 - Arbitration [see ***NOTE*** in **COMMERCIAL** section]
- ☐ CPLR Article 78 - Proceeding against a Body or Officer
- ☐ Election Law
- ☐ Extreme Risk Protection Order
- ☐ MHL Article 9.60 - Kendra's Law
- ☐ MHL Article 10 - Sex Offender Confinement *(specify)*: ☐ Initial ☐ Review
- ☐ MHL Article 81 (Guardianship)
- ☐ Other Mental Hygiene *(specify)*:
- ☐ Other Special Proceeding *(specify)*:

MATRIMONIAL

- ☐ Contested

NOTE: *If there are children under the age of 18, complete and attach the* ***MATRIMONIAL RJI Addendum (UCS-840M)****.*

For Uncontested Matrimonial actions, use the Uncontested Divorce RJI ***(UD-13)****.*

REAL PROPERTY Specify how many properties the application includes:

- ☐ Condemnation
- ☐ Mortgage Foreclosure *(specify)*: ☐ Residential ☐ Commercial

Property Address:

NOTE: *For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the* ***FORECLOSURE RJI ADDENDUM (UCS-840F)****.*

- ☐ Partition

NOTE: *Complete and attach the* ***PARTITION RJI ADDENDUM (UCS-840P)****.*

- ☐ Tax Certiorari *(specify)*: Section: Block: Lot:
- ☐ Tax Foreclosure
- ☐ Other Real Property *(specify)*:

OTHER MATTERS

- ☐ Certificate of Incorporation/Dissolution [see ***NOTE*** in **COMMERCIAL** section]
- ☐ Emergency Medical Treatment
- ☐ Habeas Corpus
- ☐ Local Court Appeal
- ☐ Mechanic's Lien
- ☐ Name Change/Sex Designation Change
- ☐ Pistol Permit Revocation Hearing
- ☐ Sale or Finance of Religious/Not-for-Profit Property
- ☐ Other *(specify)*:

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

	YES	NO	
Has a summons and complaint or summons with notice been filed?	☒	☐	If yes, date filed: 01/15/2026
Has a summons and complaint or summons with notice been served?	☐	☒	If yes, date served:
Is this action/proceeding being filed post-judgment?	☐	☒	If yes, judgment date:

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- ☐ Infant's Compromise
- ☐ Extreme Risk Protection Order Application
- ☐ Note of Issue/Certificate of Readiness
- ☐ Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined:
- ☐ Notice of Motion Relief Requested: Return Date:
- ☐ Notice of Petition Relief Requested: Return Date:
- ☐ Order to Show Cause Relief Requested: Return Date:
- ☐ Other Ex Parte Application Relief Requested:
- ☐ Partition Settlement Conference
- ☒ Request for Preliminary Conference
- ☐ Residential Mortgage Foreclosure Settlement Conference
- ☐ Waiver of Court Costs, Fees and Expenses
- ☐ Writ of Habeas Corpus
- ☐ Other *(specify)*:

RELATED CASES List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
☐	Name: PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES Role(s): Plaintiff/Petitioner	THOMAS BROWN, Office of the New York Attorney General, 28 Liberty Street , New York, NY 10005, 2124168521, thomasaustin.brown@ag.ny.gov	☒ YES ☐ NO	
☒	Name: Kramer, Robert G. Role(s): Defendant/Respondent	[redacted] c/o Kirby Behre 900 16th Street NW Washington, DC 20006	☐ YES ☒ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 01/15/2026

THOMAS AUSTIN BROWN
Signature

5298427
Attorney Registration Number

THOMAS AUSTIN BROWN
Print Name

This form was generated by NYSCEF

Exhibit A-5

New York State Unified Court System nycourts.gov

Request for Judicial Intervention Commercial Division Addendum

UCS-840C (03/2025)
Page **1** of **2**
nycourthelp.gov

Supreme Court
County of New York

Plaintiff/Petitioner (persons/entities that started the case):
PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES

Defendant/Respondent (persons/entities the case is against):
Robert G Kramer

Index #:
450441/2026

Plaintiff/Petitioner's cause(s) of action [check all that apply]:

☒ Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings (e.g., sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; technology transactions and/or commercial disputes involving or arising out of technology; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices)

☐ Transactions governed by the Uniform Commercial Code, excluding those concerning individual cooperative or condominium units

☐ Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only

☐ Shareholder derivative actions (without consideration of the monetary threshold)

☐ Commercial class actions (without consideration of the monetary threshold)

☐ Business transactions involving or arising out of dealings with commercial banks and other financial institutions

☐ Internal affairs of business organizations

☐ Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters

☐ Environmental insurance coverage

☐ Commercial insurance coverage (e.g., directors and officers, errors and omissions, and business interruption coverage)

☐ Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures (without consideration of the monetary threshold)

☐ Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75 involving any of the foregoing enumerated commercial issues (where the applicable agreement provides for the arbitration to be heard outside the United States, the monetary threshold set forth in 22 NYCRR 202.70(a) shall not apply)

UCS-840C (03/2025) Page **2** of **2** **Index #: 450441/2026**

Plaintiff/Petitioner's claim for compensatory damages, exluding punitive damages, interest, costs and counsel fees claimed: $10121079.51

Plaintiff/Petitioner's claim for equitable or declaratory relief, including a brief description of the intended benefit, right being protected, or injury being averted through the equitable or declaratory relief sought and its monetary value:

Injunction against further violation of the Martin Act

Defendant/Respondent's counterclaims:

- For counterclaims seeking monetary relief, provide a brief description of the claim, including the amount of compensatory damages sought, excluding punitive damages, interest, costs, and counsel fees claimed

- For counterclaims seeking equitable or declaratory relief, provide a brief description, including the intended benefit, right being protected, or injury being averted through the relief sought and its monetary value

I request that this case is assigned to the Commercial Division. I certify that the case meets the Commercial Division's jurisdictional requirements as set forth in 22 NYCRR 202.70(a), (b) and (c).

Dated: 01/15/2026

THOMAS AUSTIN BROWN
Signature

THOMAS AUSTIN BROWN
Print Name

Exhibit A-6

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York Plaintiff, - against – Robert G. Kramer, Defendant	**STIPULATION REGARDING SERVICE OF PROCESS AND EXTENDING DEFENDANT'S TIME TO RESPOND TO COMPLAINT** Index number: 450441/2026

WHEREAS, Plaintiff the People of The State of New York by Letitia James, Attorney General of the State of New York, ("Plaintiff") filed a complaint in the above-captioned action on January 15, 2026 ("Complaint");

WHEREAS, on January 11, 2026, Kirby Behre, a member of Miller & Chevalier Chartered, counsel for Defendant Robert G. Kramer ("Defendant," and together with Plaintiff, the "Parties"), confirmed in an email that his firm agreed to accept electronic service of the Summons and Complaint, and other papers, on behalf of Defendant in this action;

WHEREAS, on January 15, 2026, Plaintiff's counsel served the Summons and Complaint filed in this action, as well as a Notice of Electronic Filing, by email to Mr. Behre;

WHEREAS, Defendant's counsel hereby acknowledges receipt and service of process of the Summons and Complaint herein;

WHEREAS, Defendant is required to file an answer or motion or otherwise respond to the Complaint by February 15, 2026;

WHEREAS, Defendant seeks to extend the date by which he must file an answer or motion or otherwise respond to the Complaint to March 16, 2026;

WHEREAS, Plaintiff consented to the requested extension of time as memorialized in an email from Plaintiff's counsel dated January 22, 2026;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys for the Parties that Defendant's time to answer, move or otherwise respond to Plaintiff's Complaint filed in the above-referenced action is hereby extended to March 16, 2026;

IT IS HEREBY FURTHER STIPULATED AND AGREED that in the event Defendant makes a Motion to Dismiss the Complaint, Plaintiff's opposition to Defendant's Motion shall be due on or before April 30, 2026, and Defendant's reply shall be due on or before May 15, 2026;

IT IS HEREBY FURTHER STIPULATED AND AGREED that the Parties consent to the assignment of this case to the Supreme Court of the State of New York, County of New York Commercial Division;

IT IS HEREBY FURTHER STIPULATED AND AGREED that this Stipulation may be executed by PDF, facsimile or other electronic signatures with the same force and effect as originals.

Dated: February 2, 2026

LETITIA JAMES
Attorney General of the State of New York

By: Signed by: 9E9CD1BDF0D441F...
T. Austin Brown,
Assistant Attorney General
Investor Protection Bureau
28 Liberty Street
New York, New York 10005
212-416-8521
Counsel for the People of the State of New York

MILLER & CHEVALIER CHARTERED

By: Signed by: Kirby Behre 92312E7B996B45D...
Kirby Behre
900 16th Street NW
Washington, DC 20006
202-626-5960
Counsel for Defendant Robert G. Kramer

Acknowledged and Authorized

Signed by: Robert Kramer 3F530A0E4C9C400...
Robert G. Kramer, *Defendant*

Exhibit A-7

SUPREME COURT OF NEW YORK
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of New York,

Plaintiff,

v.

ROBERT G. KRAMER,

Defendant.

Index No. 450441/2026
IAS Part 48
(Masley, J)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Sercarz & Riopelle, LLP, by Roland G. Riopelle, Esq., hereby appears as attorney and local counsel for Defendant Robert G. Kramer in the above-captioned matter, and hereby demands that all future filings in this matter be served on it.

Dated: New York, New York
February 4, 2026

SERCARZ & RIOPELLE, LLP
Attorneys for Defendant Robert G Kramer

By: Roland G. Riopelle

ROLAND G. RIOPELLE
950 Third Avenue, 31st Floor
New York, NY 10022
(212) 586-4900, x 118
rriopelle@sercarzandriopelle.com

Exhibit B

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11371 / April 7, 2025

ADMINISTRATIVE PROCEEDING
File No. 3-22472

In the Matter of

Emergent BioSolutions, Inc.

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), against Emergent BioSolutions, Inc. ("Emergent" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing A Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. This proceeding arises out of violations of Section 17(a)(2) of the Securities Act by Emergent. From at least April 2020 to April 2021 ("relevant period"), Emergent made a series of materially misleading public statements touting Emergent's ability and readiness to manufacture COVID-19 vaccine doses at its Bayview facility ("Bayview") in Baltimore, Maryland, while omitting information about issues in the state of readiness of its facilities, personnel training, and quality control protocols to implement its contracted manufacturers' COVID-19 vaccine manufacturing processes.

Respondent

2. Emergent is a Delaware corporation with its principal executive offices in Gaithersburg, Maryland. Emergent is a global life sciences company focused on providing products that address accidental, deliberate, and naturally occurring public health threats (such as the opioid crisis and COVID-19). Emergent's shares trade on the New York Stock Exchange under the ticker symbol "EBS" and its common stock is registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act").

Facts

Emergent's Background and Agreements to Manufacture COVID-19 Vaccines

3. During the relevant period, Emergent's business focused on distinct public health threat categories, including a contract development and manufacturing organization ("CDMO") business line that provides services including vaccine drug substance manufacturing to biopharmaceutical companies, government agencies, and non-governmental organizations.

4. As of 2021, Emergent had seven manufacturing and development facilities in the United States including Bayview, which Emergent acquired in 2009 and operated until its closure in May 2024. Bayview was comprised of four independent manufacturing suites supported by a number of facilities and functions, including quality control labs. These independent suites were designed to give Emergent the ability to manufacture different vaccines at Bayview simultaneously. Bayview was one of only three facilities in the United States federally designated as a Center for Innovation in Advanced Development and Manufacturing, the purpose of which is to support public health emergency needs.

5. In 2020, in response to the COVID-19 pandemic, Emergent entered into agreements with two pharmaceutical companies (separately, "Pharmaceutical Company A" and "Pharmaceutical Company B" and collectively, the "Pharmaceutical Companies") to manufacture the Pharmaceutical Companies' COVID-19 vaccines at Bayview, and the U.S. government awarded Emergent a $628 million task order to reserve space to support the manufacturing of these

vaccines as part of Operation Warp Speed[2] (collectively, the "COVID-19 Agreements"). The U.S. government task order required Emergent to maintain the cleanliness and readiness of its facilities, equipment, and personnel in order to manufacture the COVID-19 vaccines safely and reliably for commercial use.

Emergent Publicly Projects Confidence in Bayview's Manufacturing Capabilities

6. Following the execution of the COVID-19 Agreements, Emergent made a series of statements publicly projecting confidence in Emergent's manufacturing capabilities. Among other things, during an April 30, 2020 earnings call, Emergent executives declared that the company had "proven manufacturing capabilities" and was ready to "rapidly deploy" its CDMO services to meet the substantial demand for a vaccine.

7. However, during the relevant period, Emergent was repeatedly warned about issues in the readiness of processes at Bayview to support commercial-scale manufacturing. These readiness issues were revealed by inspections performed by two federal agencies, the Pharmaceutical Companies, and Emergent's internal personnel. One Food and Drug Administration ("FDA") inspection of Bayview's quality control laboratory in April 2020 found issues with quality control and employee training relating to current good manufacturing practices and preventing contamination in the laboratory. Further, the FDA found Emergent's response to the April 2020 FDA inspection report to be deficient stating it "does not consider [the Bayview] facility ready to support commercial operations." Two inspections in June 2020 performed respectively by the Pharmaceutical Companies, found additional quality control issues, including mold issues and deficiencies in cross-contamination control measures.

8. Internal communications reveal that Emergent executives were aware of, and concerned about, the readiness issues at Bayview. For instance, emails on June 24, 2020 from Emergent's then-Senior Vice President of Manufacturing indicated that the FDA rejection of Emergent's response to the April 2020 FDA Inspection report was "deeply concerning." In another email discussing Emergent's quality control systems, the same executive noted, "Room to improve is a huge understatement."

Emergent Continues Publicly Projecting Confidence in Manufacturing COVID-19 Vaccines and Conducts Securities Offerings

9. Despite private acknowledgement of readiness issues at Bayview, Emergent continued making public statements during industry conferences, nationally televised shows, and earnings calls that projected confidence in Emergent's ability to manufacture the COVID-19 vaccine drug substance, while omitting information about the readiness issues identified through the various inspections of Bayview. In doing so, Emergent failed to exercise reasonable care, resulting in public statements that were materially misleading to investors.

[2] Operation Warp Speed was a partnership between the Departments of Health and Human Services and Defense formed with the purpose of helping accelerate the development, manufacture, and distribution of COVID-19 vaccines.

10. Throughout the relevant period, Emergent offered and sold securities when it issued to its employees approximately 807,181 performance stock units and restricted stock units pursuant to an existing stock incentive plan for which Emergent filed a registration statement on Form S-8. Emergent obtained money when employees exercised stock options for approximately 614,158 shares. Emergent also sold approximately $450 million of unsecured notes. On August 5, 2020, Emergent filed a Form 8-K with the Commission disclosing the notes offering to investors. The note offering was completed on August 7, 2020.

Cross-Contamination Between the Pharmaceutical Companies' Vaccines Occurs at Bayview and News of the Cross-Contamination Causes Emergent's Stock Price to Drop

11. On March 5, 2021, routine quality testing detected an "out of specification" batch of Pharmaceutical Company A's vaccine drug substance manufactured at Bayview between January 19 and February 21, 2021, due to the presence of an alternate viral drug substance in the batch (the "Cross-Contamination Event"). By March 25, 2021, investigational testing confirmed that the out of specification batch was cross-contaminated with viral drug substance belonging to Pharmaceutical Company B's vaccine.

12. The investing public was unaware of the readiness issues at Bayview and the Cross-Contamination Event until the evening of March 31, 2021 (after market close), when the press reported that Emergent had contaminated millions of Pharmaceutical Company A's COVID-19 vaccine doses after workers "mix[ed]-up" ingredients from the Pharmaceutical Companies' vaccines. Then, on April 1, 2021, Emergent published a statement acknowledging that it identified and disposed of a single batch of drug substance, which had not been released to the public, that did not meet specifications.

13. Following this news, Emergent's stock price dropped from a $92.91 closing price on March 31, 2021, to a $80.46 closing price on April 1, 2021.

14. On the same day, Emergent's then-Chief Executive Officer appeared in a nationally televised interview on CNBC and stated, "just to be clear, it isn't the case or wasn't the case where an ingredient from one vaccine contaminated or impacted the other." During the CNBC interview, the executive touted Emergent's "dedicated durable manufacturing process" and "durable quality systems" and said Emergent "remain[s] confident" about the FDA's eventual approval of Bayview to manufacture Pharmaceutical Company A's vaccine for commercial use.

15. Following the Cross-Contamination Event, the FDA initiated an inspection of Bayview on April 12, 2021 to assess Emergent's quality control protocols. While the April 2021 FDA inspection was ongoing, a second press article published on April 14, 2021, listing Emergent's then-CEO as the author, declared that Emergent's Bayview facility was "now ready to produce 1 billion vaccines a year to fight COVID-19."

16. On April 19, 2021, Emergent filed an 8-K publicly disclosing its agreement with the FDA to halt COVID-19 vaccine manufacturing at Bayview. After the release of the 8-K filing, Emergent's stock price dropped from a $77.64 closing price on April 16, 2021, to a $67.87 closing

price on April 19, 2021. Subsequently, the U.S. government and Emergent mutually agreed to terminate the Bayview task order.

Violations

17. As a result of the conduct described above, Emergent violated Section 17(a)(2) of the Securities Act, which prohibits any person, in the offer or sale of a security, from obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Emergent's Offer.

Accordingly, it is hereby ORDERED that**:**

A. Pursuant to Section 8A of the Securities Act, Respondent Emergent cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act.

B. Respondents shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of $1,500,000 to the Securities and Exchange Commission. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Emergent as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Glenn Gordon, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131.

C. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary

Exhibit C

ATTORNEY GENERAL OF THE STATE OF NEW YORK
INVESTOR PROTECTION BUREAU

In the Matter of Investigation by LETITIA JAMES, Attorney General of the State of New York - of – Emergent BioSolutions, Inc., Respondent	**Assurance No. 26-001**

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York ("OAG") commenced an investigation pursuant to the Martin Act (N.Y. General Business Law § 352 et seq.) and N.Y. Executive Law § 63(12) into allegations of insider trading by Robert G. Kramer, the then-Chief Executive Officer ("CEO") of Emergent BioSolutions, Inc. ("Emergent", "Respondent Emergent" or "the Company"), and Respondent Emergent's approval of the CEO's trading. This Assurance of Discontinuance ("Assurance") contains the findings of OAG's investigation as to Emergent, and the relief agreed to by OAG and Emergent.

OAG FINDINGS

1. In the midst of the COVID-19 crisis, the CEO submitted, and Emergent subsequently approved, a request for its then-CEO to enter into a 10b5-1 trading plan for Emergent stock while in possession of material non-public information regarding manufacturing issues at Emergent involving the contamination and delayed production of COVID-19 vaccine

drug substance for AstraZeneca PLC ("AstraZeneca"). Emergent was aware of these manufacturing issues at the time it approved the CEO's plan.

2. Emergent is a Delaware corporation, publicly traded on the New York Stock Exchange, with headquarters in Gaithersburg, Maryland. Emergent describes itself as a global life sciences company focused on providing a portfolio of innovative preparedness and response products and solutions to civilian and military populations that address accidental, deliberate, and naturally occurring public health threats.

3. On May 15, 2020, the federal government announced the Operation Warp Speed program ("Operation Warp Speed"), to coordinate efforts in the public and private sectors to manufacture vaccines for the coronavirus as quickly as possible.

4. Emergent's involvement with COVID-19 vaccine drug substance manufacturing began on June 1, 2020, when Emergent entered into an agreement with the U.S. government to support the rapid development and distribution of COVID-19 vaccines at Emergent's Bayview, Maryland plant.

5. On June 11, 2020, Emergent publicly announced a contract to provide development and manufacturing services for AstraZeneca's COVID-19 vaccine candidate, AZD1222. The announcement valued the contract at $87 million.

6. On July 27, 2020, Emergent announced a second contract with AstraZeneca, which Emergent valued at $174 million. That contract supplemented the previous contract and provided for contract development and manufacturing ("CDMO") services for vaccine drug substance production by Emergent between July 2020 and June 2021 at a large scale for commercial supply. Emergent's announcement stated that the two contracts with AstraZeneca were worth a combined value of $261 million.

7. In the week following Emergent's announcement of its CDMO contract with AstraZeneca, Emergent's stock price rose 43.6% from $94.99 on July 27, 2020 to $136.39 on August 5, 2020.

8. As the manufacturing process changed and evolved over the fall of 2020, Emergent experienced manufacturing difficulties and contamination of the AstraZeneca vaccine drug substance. Emergent noticed indices of contamination in Emergent's AZD1222 vaccine drug substance, including elevated endotoxin and excess bioburden in multiple drug substance batches, as early as September 26, 2020.

9. Production of multiple batches of Emergent's AZD1222 vaccine drug substance was paused and investigated, and multiple batches were ultimately aborted, rejected or destroyed. These manufacturing and contamination issues led to an inability of Emergent to meet the expected production schedule included in its contracts with AstraZeneca.

10. The CEO was aware of and continuously updated on the contamination situation throughout the relevant period.

11. On or about October 1, 2020, Emergent began an investigation into "initial indications of microbial contamination" in the early batches of the vaccine drug substance Emergent manufactured for AstraZeneca.

12. On or about October 6, 2020, an executive vice president responsible for manufacturing operations provided the CEO with a copy of a PowerPoint presentation, including slides about the aborted, contaminated batches, from a joint meeting held the previous day with management from AstraZeneca and the federal government.

13. On October 13, 2020, key managers and employees working for both Emergent and AstraZeneca concluded that five out of the first seven batches of vaccine drug substance

produced by Emergent using AstraZeneca's manufacturing process were likely to be lost to contamination, due to alarm level tests for endotoxin and bioburden (tests that indicated the presence of unacceptably high levels of toxic bacteria), and discussed the possible need to stop manufacturing in order to further investigate the cause of the contamination.

14. On October 14, 2020, the CEO asked his investment advisor to implement a stock trading plan ("the Trading Plan"), which would, at or above a pre-arranged strike price, result in his exercise of Emergent stock options and the immediate sale of the acquired Emergent shares, in a series of trades starting 63 days after the effective date of the Plan.

15. New York State and federal securities laws forbid the trading of stock by company insiders in possession of material non-public information. The federal securities rules include SEC Rule 10b5-1* which allows company insiders to establish a trading plan for the purchase or sale of company stock on a pre-arranged schedule. Under federal law, if an insider enters into an SEC Rule 10b5-1 trading plan in good faith (i.e. while not in possession of material nonpublic information) and that insider subsequently trades pursuant to that plan, the insider may have an affirmative defense to a charge of insider trading. However, neither federal law, nor New York state law, permits SEC Rule 10b5-1 trading plans to be used as a way of evading insider trading laws.

16. On October 23, 2020, an AstraZeneca's Senior Vice President emailed Emergent's Executive Vice President of Manufacturing ("EVP-M") that: "The situation is clearly deeply concerning as [also] the most recent batch has endotoxin/Bio hits and my understanding is that we now have found it in the buffer solution. This really makes me concerned that we may have a bigger and more systematic issue at the Site . . . ."

* 17 CFR 240.10b5-1.

17. The same day, AstraZeneca's EVP emailed Emergent's EVP-M that "We remain very concerned and sincerely hope that EBS can turn this around rapidly . . . . While I understand your point on the speed of what we are doing, I must share that others in our partner network have performed more reliably to date. We are simply nervous that the US supply chain is falling behind."

18. On Saturday November 7, 2020, AstraZeneca executives, including the EVP and SVP, spoke with members of the Emergent Executive Management Team regarding their concerns and the lack of progress in resolving the bioburden contamination problem, and requested increased involvement from Emergent senior level leadership. AstraZeneca told Emergent that the situation at that time was urgent and serious.

19. Over the course of the weekend, AstraZeneca management suggested to Emergent's EVP-M and others at Emergent that production be paused and the schedule slowed down while Emergent continued to investigate the source of the contamination, so as not to lose additional batches of vaccine.

20. Over November 11 and 12, 2020, Emergent's Senior Counsel reviewed the CEO's Rule 10b5-1 Trading Plan and coordinated with the investment advisor for the CEO to sign. The Trading Plan became effective on November 13, 2020.

21. On November 13, 2020, while Emergent was in an all-hands-on-deck manufacturing crisis and internal investigation of the undisclosed and unresolved contamination and manufacturing problems, Emergent approved the CEO's finalized Trading Plan, which the CEO then executed.

22. The contamination problem continued and remained unresolved through November despite substantial efforts to locate the root cause of the problem. Unresolved, these

issues threatened the ability of Emergent to manufacture AstraZeneca vaccine drug substance in accordance with the expected production schedule included in its contracts with AstraZeneca. These problems were not disclosed to the public.

23. Emergent reviewed and approved the CEO's Rule 10b5-1 Trading Plan.

24. Emergent was aware of the unresolved manufacturing and contamination problems and of the CEO's awareness of those problems.

25. The Trading Plan provided for the CEO's exercise of Emergent stock options, and for the CEO's sale of the shares he acquired under the Plan, starting 63 days after approval of the Plan. Emergent received $2,526,688.94 from the CEO upon his exercise of the Emergent stock options, and the CEO received proceeds of $10,121,079.50 on the sale of Emergent stock that he acquired under the Trading Plan.

26. On April 4, 2021, the United States Food and Drug Administration ordered a permanent halt to Emergent's production of the AstraZeneca vaccine. At that time, Emergent had successfully completed only 28 commercially viable batches and had 13 batches in progress. These numbers were far below the numbers in the expected production schedule included in Emergent's contracts with AstraZeneca.

OAG's CONCLUSIONS

27. Emergent's serious contamination problems and its loss of multiple batches of vaccine drug substance, along with ongoing difficulties in implementing various manufacturing process changes, and the impact of these circumstances on Emergent's drug substance manufacturing capability and production schedule, were material non-public information.

28. The CEO entered into the Rule 10b5-1 Trading Plan while in possession of material nonpublic information and thus did not enact the Trading Plan in good faith.

29. Emergent approved the CEO's Trading Plan despite the CEO's possession of material non-public information, and that Emergent had not disclosed the information at the time of the Plan or sales.

30. Emergent's actions, as stated above, violated the Martin Act, General Business Law § 352-c and 353, and Executive Law § 63(12).

31. Respondent Emergent neither admits nor denies the OAG's findings in paragraphs 1-__, *supra*.

32. OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of the Martin Act and Executive Law § 63(12) based on the conduct described above during the period October 2020 through April 2021.

RELIEF

33. General Injunction: Respondent Emergent shall not engage, or attempt to engage, in conduct in violation of any applicable laws, including but not limited to the Martin Act, and Executive Law § 63(12), and expressly agrees and acknowledges that any such conduct is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 41, in addition to any other appropriate investigation, action, or proceeding.

34. Monetary Relief: Within 10 days of the Effective Date of this Assurance, Respondent Emergent shall pay $900,000 to the State of New York, either by wire transfer to the account provided by the OAG, or by certified or bank check payable to the State of New York.

35. If paid by wire transfer, the payment shall reference this Assurance No, 26-001. If paid by certified or bank check, the check shall be delivered to: Office of the Attorney General of the State of New York, 28 Liberty Street, 21st Floor, New York, New York, 10005, Attn: Shamiso Maswoswe, Chief, Investor Protection Bureau.

36. Respondent Emergent will not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state or local tax, directly or indirectly, for any portion of the payment it shall make pursuant to this Assurance.

37. Respondent Emergent will not claim, assert, or apply insurance coverage for any portion of the payment it shall make pursuant to this Assurance.

38. Insider Trading Policy and Pre-Clearance Form: Respondent Emergent shall amend its current Insider Trading Policy to include at least the following:

a. An enhanced and revised Trading Pre-Clearance Form, attached hereto as Exhibit A, certifying that any Board Member or officer at the level of Senior Vice President and above seeking to trade : 1) is aware of the Respondent's insider trading policy, 2) is aware that it is unlawful to trade in the securities of the Respondent, or to enter into or modify a Rule 10b5-1 trading plan, while in possession of material non-public information concerning the Respondent, 3) is aware that both civil and criminal penalties, as well as damages could be imposed if they trade or enter into or modify a Rule 10b5-1 trading plan while in possession of material non- public information concerning the Respondent, 4) is not in possession of or aware of any material information regarding the Respondent that has not been publicly disclosed by the Respondent in a widely disseminated press release or in a public filing with the SEC, and 5) in connection

with evaluating their foregoing certification in the preceding sub-paragraph, they have considered whether they are aware of any material incident as defined in Exhibit A, that has not been publicly disclosed, and they are not in possession or aware of any such information; and

b. A requirement that any Board Member or officer at the level of Senior Vice President and above who seeks approval for a Rule 10b5-1 Plan or modification of such a Plan complete a Trading Pre-Clearance Form, attached hereto as Exhibit A as described above.

39. Reporting: For a period of three (3) years from the Effective Date of this Assurance, Respondent Emergent shall provide to the OAG, within 20 business days of the end of each quarter, (a) a report listing the names, addresses and positions of all Board Members and Officers holding the position of Senior Vice President and above who have adopted, modified, or terminated a written trading arrangement under SEC Rule 10b5-1, and (b) copies of all such trading arrangements under SEC Rule 10b5-1, modifications or terminations, and copies of all Pre-Clearance Forms signed by such Board Members and Officers of Emergent.

40. Subsequent Proceedings: Respondent expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance any portion thereof is voided pursuant to paragraph 53, and agree and acknowledge that in such event:

1. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
2. the OAG may use statements, documents or other materials produced or provided by the Respondent prior to or after the effective date of this Assurance;

3. any such civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and
4. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

41. In the event that the OAG brings an action against any other party relating to the substance of this Assurance, Emergent shall fully cooperate in the acceptance of any subpoena and in the production and authentication of any statements, documents or other materials in its possession or control. Respondent Emergent agrees to use its best efforts to cause its current and former employees, officers and directors to be interviewed by the OAG or to testify in connection with any such action.

42. In the event that the OAG believes that Respondent has defaulted in the performance of any obligation set forth in this Assurance, the OAG will provide written notice of such default to the designated representative of Respondent. Respondent shall then have seven (7) days to respond and/or certify that any default has been cured.

43. Unless a term limit for compliance is otherwise specified within this Assurance, Respondent's obligations under this Assurance shall be enduring.

44. If a court of competent jurisdiction determines that Respondent has violated this Assurance, Respondent shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance

45. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of the Respondent. Respondent shall include any such successor, assignment, or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

46. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

47. Any failure by the OAG to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by the Respondent.

Communications

48. All notices, reports, requests, and other communications pursuant to this Assurance must reference this Assurance No. 26-001, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to Respondent Emergent, to:

General Counsel
Emergent BioSolutions Inc.
300 Professional Drive
Gaithersburg, MD 20879
With a copy of any notice or correspondence to LegalNotices@ebsi.com

If to OAG, to:

Office of the Attorney General of the State of New York,
28 Liberty Street, 21st Floor, New York, New York, 10005
Attn: Shamiso Maswoswe,
Chief, Investor Protection Bureau, or such other member of OAG's staff as designated by the Attorney General.

Representations and Warranties

49. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondent in agreeing to this Assurance.

50. Respondent Emergent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved. Respondent further represents and warrants that Respondent, through the undersigned as signatory to this Assurance, is a duly authorized officer of the Company with full power and authority to execute this Assurance.

51. Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Provided, however, that nothing in this paragraph shall affect Respondent's ability to advance factual or legal defenses in litigation, regulatory proceedings, or in response to potential claims regarding the same or similar conduct.

52. This Assurance may not be amended except by an instrument in writing signed on behalf of Respondent Emergent and the OAG.

53. In the event that any one or more of the provisions of this Assurance is for any reason held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any

respect, then in the sole discretion of the OAG such invalidity, illegality or unenforceability shall not affect any other provision of this Assurance.

54. Respondent Emergent acknowledges that it has entered into this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

55. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

56. This Assurance may be executed in multiple counterparts by the parties hereto.

57. The effective date of this Assurance shall be January 15, 2026 ("Effective Date").

Dated: New York, New York

January 15, 2026

LETITIA JAMES
Attorney General of the State of New York

By: _____
T. Austin Brown
Assistant Attorney General
Investor Protection Bureau

Steven J. Glassman
Special Counsel in Economic Justice
Economic Justice Division

Kenneth Haim
Deputy Bureau Chief
Investor Protection Bureau

Shamiso Maswoswe
Chief of the Investor Protection Bureau
28 Liberty Street
New York, New York 10005
Counsel for the People of the State of New York

EMERGENT BIOSOLUTIONS, INC.

By: _____
Joseph Papa
President and Chief Executive Officer
Emergent BioSolutions, Inc.
300 Professional Drive
Gaithersburg, MD 20879

ACKNOWLEDGEMENT

State of Florida) ss.:

County of Collier .)

On the 9 day of January in the year 2026 before me personally by means of physical presence. TK came Joseph Papa, who being by me duly sworn, did depose and say that he resides in Naples, FL; that he is the officer duly appointed of Emergent BioSolutions Inc., the corporation described in the above executed instrument, and that he signed his name thereto by delegated authority of the board of directors of said corporation. Joseph papa provided his Drivers License as identification. TK

Tiffany E Kosow

NOTARY PUBLIC Tiffany E. Kosow

TIFFANY E. KOSOW
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # HH362201
My Commission Expires 02/14/2027

Exhibit A: Trading Pre-Clearance Form

EMERGENT BIOSOLUTIONS INC. TRADING PRE-CLEARANCE FORM

DESCRIPTION OF PROPOSED TRANSACTION

Name: _____ Today's Date: _____

Title: _____ Department: _____

Proposed Number of Shares: _____

Type of Transaction:

_____

(Option Exercise, Purchase, Sale or Gift *(describe)*)

CERTIFICATION: By my signature below, I certify to Emergent BioSolutions Inc. (the "Company") that

(1) I have read and am familiar with the Company's Insider Trading Policy;

(2) I am aware that it is unlawful to trade in the securities of the Company, or to enter into or modify a Rule 10b5-1 trading plan ("Trading Plan"), while in possession of material non-public information concerning the Company;

(3) I am aware that civil and criminal penalties as well as damages could be imposed if I trade or enter into or modify a Trading Plan while in possession of material non- public information concerning the Company;

(4) I am not in possession of or aware of any material information regarding the Company that has not been publicly disclosed by the Company in a widely disseminated press release or in a public filing with the SEC; and

(5) In connection with evaluating my certification that I am not in possession of or aware of any material information regarding the Company that has not been publicly disclosed by the Company, I have considered whether I am aware of any Material Incident, as defined below, that has not been publicly disclosed, and certify that I am not in possession or aware of such information.

"Material Incident is defined as a:

(i) significant development in the Company's relationships with key regulators, including, without limitation, any inspection with findings requiring changes, improvements, or reforms, inspection observations reported on a FDA Form 483, or material violations issued by the FDA or any other governmental or regulatory body;

(ii) whistleblower or ethics complaint and the results of any investigations into such complaints that concern the facility, its operations, or a material contract the facility is responsible for;

(iii) material and notable production issues, including, but not limited to: significant production delays, contamination issues, quality control, regulatory compliance, destruction of large quantities of products, major personnel issues; or

(iv) Contract disputes and significant developments in the Company's relationships with key contractual partners, or production of their own vaccines or medications.

Exhibit A: Trading Pre-Clearance Form

Signature:_____ Dated: _____

FOR INTERNAL USE

Approved? ☐ Yes ☐ No

_____

Date of Expiration of Clearance _____

_____