

**Congress of the United States**  
**Washington, DC 20515**

May 18, 2012

Mr. Henry Dale Smith, Jr.  
Chairman and Chief Executive Officer  
H. D. Smith  
3063 Fiat Avenue  
Springfield, IL 62703

Dear Mr. Smith:

For the past several months, we have been investigating why hospitals and other health care providers are having difficulty obtaining prescription drugs they need to treat critically ill patients suffering from cancer and other life-threatening conditions. When these providers are unable to obtain these drugs directly from drug manufacturers or authorized distributors, they sometimes purchase them from so-called “gray market” drug wholesalers at prices that are far higher than they would pay through normal distribution channels.

We are deeply troubled that these gray market wholesalers appear to be profiting at the expense of seriously ill patients and the health care professionals who are caring for them. We are also concerned about how drugs traveling through gray market distribution networks are shipped and stored. In many cases, it is not clear to us that these wholesalers have stored and handled the drugs properly, which raises serious concerns about the drugs’ efficacy and safety.

As part of our investigation, we have obtained documents showing that your company sold several different types of injectable drugs to businesses that did not dispense them to health care providers, but instead resold them to secondary wholesalers. After additional transactions, these drugs were marketed and sold to hospitals at much higher prices. Attached to this letter is a schedule that provides detailed information about seven recent transactions in which your company sold three types of injectable drugs—paclitaxel, magnesium sulfate, and cytarabine—to businesses that resold them to third parties.

We request that you provide the following information and documents:

- Unredacted invoices or other unredacted documents indicating from whom H. D. Smith purchased the drugs described in each of the seven transactions listed in the schedule attached to this letter, the date H. D. Smith purchased the drugs, and the price H. D. Smith paid for the drugs.
- Unredacted invoices or other unredacted documents indicating to whom H. D. Smith sold the drugs described in each of the seven transactions listed in the schedule attached to this letter, the date H. D. Smith sold the drugs, and the price the purchaser paid H. D. Smith for the drugs.

Letter to Mr. Henry Dale Smith, Jr.

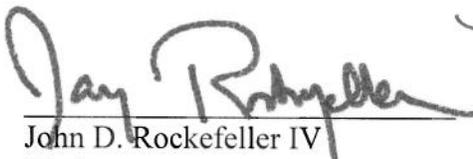
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- Information or documents indicating whether H. D. Smith took physical possession of the drugs described in each of the seven transactions listed in the schedule attached to this letter before selling them, and if H. D. Smith did take physical possession of the drugs, the steps H. D. Smith took to ensure that the drugs were shipped to the purchasers at the appropriate temperatures.

Based on the results of our investigation to date, it appears that gray market drug companies exacerbate the problems caused by critical drug shortages by making it more difficult and expensive for hospitals and other health care providers to care for their patients. As a company committed to “improving the quality, safety and cost of patient care,” we appreciate your assistance in this matter.<sup>1</sup> Please provide the information requested in this letter by Friday, May 25, 2012, and we request that you inform us immediately if you do not intend to comply voluntarily with the requests in this letter. Please contact Jim Trilling at (202) 224-1300, Bryan Boroughs at (202) 228-6797, and Ellen Zeng at (202) 225-5051 to arrange for the production of the requested documents.

Sincerely,



John D. Rockefeller IV  
Chairman  
Senate Committee on Commerce,  
Science, and Transportation



Tom Harkin  
Chairman  
Senate Committee on Health,  
Education, Labor, and Pensions



Elijah E. Cummings  
Ranking Member  
House Committee on Oversight  
and Government Reform

cc: The Honorable Kay Bailey Hutchison, Ranking Member  
Senate Committee on Commerce, Science, and Transportation

The Honorable Michael B. Enzi, Ranking Member  
Senate Committee on Health, Education, Labor, and Pensions

The Honorable Darrell E. Issa, Chairman  
House Committee on Oversight and Government Reform

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<sup>1</sup> H. D. Smith Mission Statement (online at [www.hdsmith.com/about-us/](http://www.hdsmith.com/about-us/)) (accessed on May 16, 2012).