



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*  
R.S.O. 1990, c. S.5, as amended**

**- and -**

**IN THE MATTER OF BIOVAIL CORPORATION, EUGENE N. MELNYK,  
BRIAN H. CROMBIE, JOHN R. MISZUK AND KENNETH G. HOWLING**

**CONFIDENTIALITY ORDER  
(GSK)**

**WHEREAS**, on March 24, 2008, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing and related Statement of Allegations (the “Notice of Hearing”) against Biovail Corporation (“Biovail”), Eugene N. Melnyk (“Melnyk”), Brian H. Crombie (“Crombie”), John R. Miszuk (“Miszuk”) and Kenneth G. Howling (“Howling”) (the “OSC Proceeding”);

**AND WHEREAS** a case is currently pending in the United States District Court for the Southern District of New York (Case Number 08-02979), commenced by the Securities and Exchange Commission on March 24, 2008, against Melnyk, Crombie, Miszuk and Howling (the “U.S. Case”), wherein a Stipulation and Protective Order dated September 3, 2008 and the Stipulated Addendum to Stipulation and Protective Order Concerning Non-Party SmithKline Beecham Corporation dated January 12, 2009, were entered by the court in the U.S. Case;

**AND WHEREAS** the Commission has approved settlement agreements reached with Biovail, Miszuk, Howling and Crombie;

**AND WHEREAS** the OSC Proceeding continued against Melnyk;

**AND WHEREAS** Staff of the Commission and Melnyk relied on an initial collection of 213 documents containing information over which SmithKline Beecham Corporation carrying on business as GlaxoSmithKline (“GSK”) sought to assert confidential treatment in the OSC Proceeding (the “Initial Hearing Documents”);

**AND WHEREAS** GSK brought a motion returnable March 3, 2009 seeking confidential treatment over certain portions of the Initial Hearing Documents (the “March 3 Motion”);

**AND WHEREAS** subsequent to the March 3 Motion, Staff of the Commission and Melnyk relied on additional hearing documents, compendia and written submissions containing information over which GSK seeks to assert confidential treatment (the “Additional Hearing Documents”);

**AND WHEREAS** by order dated March 4, 2009 and subsequent orders dated June 4 and June 10, 2009, GSK was afforded the right to appear and be heard at the conclusion of the OSC Proceeding regarding matters arising during the hearing and matters arising out of the hearing, including but not limited to, issues relating to GSK confidentiality, other than those issues determined on the March 3 Motion;

**AND WHEREAS** GSK brought a motion for confidential treatment over certain of the Additional Hearing Documents listed in Schedule “A” hereto (the “Schedule A Additional Documents”), certain transcript references (the “Schedule B Transcripts” and the “Schedule E Transcript”), certain written submissions (the “Schedule C Submissions”) and certain compendia (the “Schedule D Compendia”) (the “GSK Motion”);

**IT IS HEREBY ORDERED** that:

1. The Schedule A Additional Documents, the Schedule B Transcripts, the Schedule C Submissions, the Schedule D Compendia and the Schedule E Transcript shall only be made available to the public in redacted form, as provided to the Commission and the parties as part of the GSK Motion.

2. All documents ordered redacted pursuant to this order and the Commission's March 4, June 4 and June 10, 2009 orders shall include documents tendered into evidence and filed with the Commission in electronic form.

3. The Commission, Melnyk and his counsel, Staff of the Commission, the United States Securities and Exchange Commission (the "SEC"), the parties' experts, GSK and its counsel, as well as counsel for Crombie, Miszuk and Howling, may be provided with a copy of any documents referred to in paragraph 1 above in unredacted form. Subject to paragraph 4 hereof, such unredacted documents shall be kept confidential and shall not be disclosed to any other person or entity.

4. Melnyk and his counsel, the SEC, the parties' experts, Biovail and its counsel, as well as counsel for Crombie, Miszuk and Howling may use any unredacted documents referred to in paragraph 3 above in the U.S. Case, subject to any determinations or orders that have been made or may be made in that proceeding as to the use that may be made of the unredacted documents, and the rights of all parties including GSK in that regard are reserved.

5. The terms of this order are subject to any modification or variation made by order of the Commission on its own initiative or on application by Staff or any of the parties, provided notice thereof is given to any of the affected parties.

**DATED** at Toronto this 20<sup>th</sup> day of August, 2009.

*"James E. A. Turner"*

*"David L. Knight"*

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James E.A. Turner

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David L. Knight

*"Paulette L. Kennedy"*

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Paulette L. Kennedy

**SCHEDULES “A” – “E”**

	<b>Date</b>	<b>Document</b>	<b>Docid/Page(s)</b>
<b>SCHEDULE “A” - EXHIBITS</b>			
1.	Oct. 29, 2003	Email and Wellbutrin XL Inventory as at September 30, 2003	BVF_02_000630041
2.	Nov. 14, 2003	Email and Wellbutrin XL Inventory as of September 30, 2003 US Pharma	BVF_02_000047794
3.	Nov. 9, 2004	Wellbutrin XL Amendment Summary	DWPVNEW000542
4.	Jan. 20, 2004	Email and Wellbutrin XL Reconciliation	BVF_02_000019019
<b>SCHEDULE “B” – TRANSCRIPTS</b>			
1.	Mar. 3 2009	Extract from Ontario Securities Commission (“OSC”) Hearing Transcript re: GSK Motion	45
2.	Mar. 5, 2009	Extracts from OSC Hearing Transcript re: Biovail	86-89, 118-125
3.	Mar. 6, 2009	Extracts from OSC Hearing Transcript re: Biovail	126-137, 142-149, 166-185
4.	Mar. 9, 2009	Extracts from OSC Hearing Transcript re: Biovail	18-25, 30-37, 50-57
5.	Mar. 11, 2009	Extracts from OSC Hearing Transcript re: Biovail	46-53, 82-85, 150-157
6.	Mar. 12, 2009	Extracts from OSC Hearing Transcript re: Biovail	10-13, 58-69
7.	Apr. 2, 2009	Extracts from OSC Hearing Transcript re: Biovail	50-53, 154-157
8.	Apr. 3, 2009	Extracts from OSC Hearing Transcript re: Biovail	18-21, 118-121
9.	June 26, 2009	Extracts from OSC Hearing Transcript re: Biovail	73
<b>SCHEDULE “C” – WRITTEN SUBMISSIONS</b>			
1.	May 25, 2009	Closing Submissions of OSC Staff	6-7
2.	June 9, 2009	Closing Submissions of Eugene N. Melnyk	25-26

<b>SCHEDULE "D" – COMPENDIA</b>			
1.	None	Extracts from Mr. Melnyk's Opening Brief/ Compendium, Tab 7	3, 6, 7, 9, 10, 11, 12, 14, 17
2.	None	Extracts from Mr. Melnyk's Closing Compendium, Tab 13, April 3, 2009.	19

<b>SCHEDULE "E" – OTHER TRANSCRIPTS</b>			
1.	Mar. 25, 2009	Extracts from transcript of deposition of Mr. Jack Davis given in Durham, North Carolina	9, 10