

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

IN RE KING PHARMACEUTICALS, INC.
SECURITIES LITIGATION

Lead Case No. 2:03-CV-77

CLASS ACTION

Assigned to: Judge Thomas Gray Hull

CONSOLIDATED CLASS ACTION COMPLAINT
FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

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I. NATURE OF THE ACTION

1. Lead Plaintiffs, the Policemen and Fireman Retirement System of the City of Detroit (“Detroit P&F”), the Los Angeles County Employees Retirement Association (“LACERA”) and the Teachers’ Retirement System of Louisiana (“TRSL”) (collectively, the “Public Retirement Funds”), along with Jones Merger Lead Plaintiffs Jim O’Neal and Kathleen Crews (collectively, the “Jones Merger Lead Plaintiffs”), bring this action on their own behalf and on behalf of all persons or entities who purchased King Pharmaceuticals, Inc. (“King” or the “Company”) common stock between February 16, 1999 and March 10, 2003 (“Class Period”), including all persons who acquired King common stock pursuant to, or traceable to: (i) its November 2001 public offering; and (ii) its acquisition of Jones Pharma Incorporated (“Jones Pharma”) in August 2000. The facts alleged herein are currently the subject of an ongoing investigation by the Securities and Exchange Commission (“SEC”).

2. King is in the business of purchasing the rights to market various branded drugs from pharmaceutical manufacturers, and then selling these drugs to retail outlets. During the Class Period, as defined in ¶1, above, the Company funded its purchases of new drugs and, in certain cases, funded the acquisition of the manufacturers of these drugs, through a series of public offerings of its common stock to the public. Between February 1999 and March 2003, King issued 20 million shares of common stock in public offerings, as described herein, in return for proceeds in excess of \$753 million, including its issuance of approximately 73 million shares in connection with its

acquisition of Jones Pharma in August 2000. Each of these public offerings was registered with the SEC, and was made pursuant to a formal registration statement and prospectus.

3. Each of the registration statements and prospectuses issued by King in connection with its public offerings was materially false and misleading, and materially overstated the Company's financial results in violation of Generally Accepted Accounting Principles ("GAAP"). Specifically, as detailed herein, the registration statements and prospectuses falsely stated that King was in compliance with all relevant laws and regulations when, in reality, the Company had materially understated amounts due and owing to Medicaid. Also, the registration statements and prospectuses failed to disclose that King was generating substantial revenues at the end of the fiscal year from transactions with a related party controlled by King, in violation of GAAP. On March 11, 2003, King revised its previously announced financial results during the Class Period due to the understatement of its liability to Medicaid, and its failure to properly disclose the various related party transactions set forth herein.

4. Lead Plaintiffs allege that defendants, as the officers and directors of King, and various other parties who participated in these public offerings, are strictly liable for these misstatements under the Securities Act of 1933 ("Securities Act"). Further, as detailed in Counts VII through IX, below, Lead Plaintiffs allege that certain defendants acted intentionally or recklessly during the Class Period in issuing false and misleading statements, rendering them liable under the anti-fraud provisions of the

Securities Exchange Act of 1934 (“Exchange Act”). Finally, as detailed in Counts X through XI, below, Lead Plaintiffs allege that certain defendants acted negligently during the Class Period in issuing false and misleading statements, rendering them liable under the Exchange Act.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to § 22 of the Securities Act, 15 U.S.C. § 77v, as well as pursuant to § 27 of the Exchange Act, 15 U.S.C. § 78aa. The claims alleged herein arise under §§ 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2) and 77o and §§ 10(b), 14(a), 20(a) and 20A of the Exchange Act, 15 U.S.C. §§ 78j(b), 78n(a), 78t(a), 78t-1 and Rules 10b-5 and 14a-9 promulgated thereunder by the SEC, 17 C.F.R. §§ 240.10b-5 and 240.14a-9.

6. Venue is proper in this District pursuant to § 22 of the Securities Act, 15 U.S.C. § 77v, § 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. §§ 1391(b) and 1391(c). Many of the acts and transactions giving rise to the violations of law complained of herein, including the preparation and dissemination to the investing public of materially false and misleading statements, including the materially untrue and misleading Jones Merger Propectus and November Prospectus, occurred in this District. In addition, King maintains its principal executive offices in this District at 501 Fifth Street, Bristol, Tennessee.

7. In connection with the acts, conduct and other wrongs complained of herein, the defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, the United States mail, and the facilities of a national securities exchange.

III. THE PARTIES

Lead Plaintiffs

8. Lead Plaintiff Detroit P&F is a public pension fund system located in Detroit, Michigan, which was formed for the benefit of the current and retired policemen and firemen of the City of Detroit. During the Class Period, Detroit P&F purchased shares of King common stock in a series of open market transactions, as detailed in Detroit P&F's certification filed with the Court on May 12, 2003 in support of its motion to be appointed Lead Plaintiff. As a result of the unlawful conduct alleged herein, Detroit P&F suffered damages in connection with its purchases of King common stock.

9. Lead Plaintiff LACERA is a public pension fund system located in Pasadena, California, which was formed for the benefit of the current and retired employees of the County of Los Angeles. During the Class Period, LACERA purchased shares of King common stock in a series of open market transactions. On September 5, 2000, LACERA exchanged shares of Jones Pharma common stock for shares of King common stock pursuant to the Jones Prospectus and was solicited to vote on the Jones Merger pursuant to the Jones Merger Proxy. Additionally, LACERA acquired 41,500 shares of King common stock pursuant to the November Offering, as detailed in

LACERA's certification filed with the Court on May 12, 2003 in support of its motion to be appointed Lead Plaintiff. As a result of the unlawful conduct alleged herein, LACERA suffered damages in connection with its purchase of King common stock.

10. Lead Plaintiff TRSL is a public pension fund system which was formed for the benefit of the active and retired public school teachers in the State of Louisiana. During the Class Period, TRSL purchased shares of King common stock in a series of open market transactions, as detailed in TRSL's certification filed with the Court on May 12, 2003 in support of its motion to be appointed Lead Plaintiff. As a result of the unlawful conduct alleged herein, TRSL suffered damages in connection with its purchases of King common stock.

Jones Merger Lead Plaintiffs

11. Lead Plaintiff Jim O'Neal ("O'Neal") exchanged shares of Jones Pharma common stock for shares of King common stock pursuant to the Jones Prospectus, was solicited to vote for the Jones Merger by the Jones Merger Proxy, and suffered damages as a result of the unlawful conduct alleged herein.

12. Lead Plaintiff Kathleen Crews ("Crews") exchanged shares of Jones Pharma common stock for shares of King common stock pursuant to the Jones Prospectus and was solicited to vote on the Jones Merger pursuant to the Jones Merger Proxy, and suffered damages as a result of the unlawful conduct alleged herein.

Defendants

13. Defendant King was founded in 1993 and was a privately held corporation until its Initial Public Offering (“IPO”) on June 25, 1998. King is a vertically integrated pharmaceutical company that develops, manufactures, markets and sells branded prescription pharmaceutical products. During the Class Period, King common stock traded on the NASDAQ National Market from June 25, 1998 until May 23, 2000, and thereafter traded on the New York Stock Exchange under the symbol KG. As of March 30, 2003, there were 240,624,751 shares of King common stock outstanding. King issued approximately 73 million shares of King common stock to Jones Pharma shareholders in connection with the Jones Merger.

Officer Defendants

14. (a) Defendant Jefferson J. Gregory has served as Chief Executive Officer (“CEO”) of King since January 1, 2002 and Chairman of its Board of Directors since June 28, 2002. He previously served as President of King from 1993 until April 2002. Additionally, on November 8, 2000, Jefferson Gregory was named President of Jones Pharma.

(b) Jefferson Gregory signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and King’s annual reports filed with the SEC on Forms 10-K for fiscal years 1998, 2000, 2001 and 2002 and the quarterly reports filed with the SEC on Forms 10-Q for the first,

second, and third quarters of fiscal year 2002. As of May 3, 1999, Jefferson Gregory owned 3.2% of all outstanding shares of King common stock.

15. (a) Defendant John M. Gregory served as the Chairman of King's Board of Directors from the Company's inception in 1993 until June 28, 2002. He also served as CEO from 1994 until January 1, 2002.

(b) John Gregory signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and King's annual reports filed with the SEC on Forms 10-K for fiscal years 1998, 1999, 2000 and 2001 and quarterly reports filed with the SEC on Forms 10-Q for the first, second and third quarters of fiscal years 1999, 2000 and 2001. John Gregory sold 2.5 million shares of King common stock as a "selling shareholder" pursuant to the November Offering for proceeds totaling approximately \$92 million. As of May 3, 1999, John Gregory owned 24.7% of all outstanding shares of King common stock.

16. (a) Defendant Joseph R. Gregory has served as Vice Chairman of King's Board of Directors since 1997. He has served as President of Monarch Pharmaceuticals, Inc., ("Monarch") a wholly-owned subsidiary of King, since 1994.

(b) Joseph Gregory signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and King's annual reports filed with the SEC on Forms 10-K for fiscal years 1998, 1999, 2000 and 2001. Joseph Gregory sold 2 million shares of King common stock as a "selling shareholder" pursuant to the November Offering for proceeds of approximately

\$73.6 million. As of May 3, 1999, Joseph Gregory owned 9.0% of all outstanding shares of King common stock.

17. Defendant James E. Gregory served as Executive Vice President of Medical Affairs from the time of the Company's IPO until 2000. James Gregory signed the annual report filed with the SEC on Forms 10-K for fiscal year 2002.

18. Defendants John Gregory, Jefferson Gregory, Joseph Gregory and James Gregory are brothers.

19. Defendant Brian G. Shrader ("Shrader") served as King's Chief Financial Officer ("CFO") from 1993 through October 1, 2000. Shrader signed the Jones Merger Registration Statement, King's annual reports on Forms 10-K for fiscal years 1998 and 1999 and the quarterly reports on Forms 10-Q for the first, second and third quarters of fiscal 1999 and the first and second quarters of fiscal 2000.

20. Defendant James R. Lattanzi ("Lattanzi") replaced Shrader and became King's CFO on October 1, 2000. Lattanzi signed the July Registration Statement filed in connection with the November Offering, King's annual reports filed with the SEC on Forms 10-K for fiscal years 2000, 2001 and 2002 and the quarterly reports on Forms 10-Q for the third quarter of fiscal 2000, and the first, second and third quarters of fiscal years 2001 and 2002.

21. Defendant Kyle Macione ("Macione") has served as President of King since April 2002. He previously served as Executive Vice President, Corporate Affairs since January 1998 and as Corporate Counsel since March 1996. Each of the press

releases containing the false and misleading statements herein list Macione as the Company's contact. Moreover, in announcing Macione's promotion to President on April 29, 2002, Jefferson Gregory described Macione as "[i]nstrumental in the successful development and growth of King Pharmaceuticals."

22. Defendant Rufus Henry Richards ("Richards") served as Executive Vice President of Medical Affairs from the time of the Company's IPO until 2000. Richards is the step-brother of John, Jefferson, Joseph and James Gregory.

23. Each of the defendants named in ¶¶14-22, above (collectively, the "Officer Defendants"), because of their management positions, membership on King's Board of Directors and/or their extensive ownership of King common stock, had the power and authority to control the contents of King's SEC reports and filings, press releases and presentations to securities analysts, and to cause King to engage in the unlawful conduct complained of herein.

Director Defendants

24. Defendant Ernest C. Bourne ("Bourne") was a Director of the Company from October 1997 until October 4, 2002. Bourne signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for fiscal years 1998, 2000 and 2001.

25. Defendant Frank W. DeFriece, Jr. ("DeFriece") has been a Director of the Company since October 1997. DeFriece signed the Jones Merger Registration Statement,

the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for fiscal years 1998, 1999, 2001 and 2002.

26. Defendant D. Gregory Rooker (“Rooker”) has been a Director of the Company since October 1997. Rooker signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for fiscal years 1998, 1999, 2000, 2001 and 2002.

27. Defendant Earnest W. Deavenport, Jr. (“Deavenport”) has been a Director of the Company since May 2000. Deavenport signed the Jones Merger Registration Statement, the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for the fiscal years 2000, 2001 and 2002.

28. Defendant Gregory D. Jordan (“Jordan”) has been a Director of the Company since June 2001. Defendant Jordan signed the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for fiscal years 2000, 2001 and 2002.

29. Defendant R. Charles Moyer (“Moyer”) has been a Director of the Company since December 2000. Defendant Moyer signed the July Registration Statement filed in connection with the November Offering and the annual reports on Forms 10-K for fiscal years 2000, 2001 and 2002.

30. Defendant Richard C. Williams (“Williams”) was a director of the Company from February 2000 through April 2001. He served as Vice Chairman of Strategic Planning of the Board of Directors of the Company. Williams signed the Jones

Merger Registration Statement and the annual reports on the Form 10-K for fiscal years 1999 and 2000.

31. Each of the defendants in ¶¶24-30 (collectively the “Director Defendants”), by virtue of their position as a director of King and their signing of the Jones Merger and/or July Registration Statements, was responsible for ensuring the truth and accuracy of the various statements contained in the Company’s registration statements filed in connection with the November Offering and the Jones Merger.

Jones Pharma Defendants

32. Defendant Jones Pharma was acquired by the Company in August 2000, at which time, Jones Pharma shareholders exchanged their common stock for King common stock pursuant to the Jones Merger Proxy. Jones Pharma solicited the vote of Jones Pharma shareholders in favor of the Jones Merger.

33. Defendant Dennis M. Jones (“Jones”) founded Jones Pharma in 1981 and served as the chairman and CEO of Jones Pharma until the consummation of the Jones Merger. Jones solicited Jones Pharma shareholders to vote in favor of the merger and to exchange their Jones Pharma shares for King shares pursuant to the Jones Merger Proxy. He signed a letter mailed to all Jones shareholders soliciting Jones Pharma shareholders to vote in favor of the merger and informing Jones Pharma shareholders that the board of directors of Jones Pharma recommended that Jones Pharma shareholders approve the Jones Merger.

Underwriter Defendants

34. Defendant Credit Suisse First Boston Corporation (“CSFB”) was one of four lead underwriters for the November Offering. CSFB is a leading global investment banking and financial services firm. CSFB, as one of the underwriters for King’s November Offering, sold and distributed 3,480,900 shares of King common stock to the investing public pursuant to the November Prospectus and had the option to purchase an additional 3,075,000 shares on a pro rata basis to cover over-allotments, which they partially exercised.

35. Defendant J.P. Morgan Securities, Inc. (“JP Morgan”) was one of four lead underwriters for the November Offering. JP Morgan, now JP Morgan Chase & Co., is a leading global financial services firm. JP Morgan, as one of the underwriters for King’s November Offering, sold and distributed 3,480,900 shares of King common stock to the investing public pursuant to the November Prospectus and had the option to purchase an additional 3,075,000 shares on a pro rata basis to cover over-allotments, which they partially exercised.

36. Defendant Banc of America Securities, Inc. (“Banc of America”) was one of four lead underwriters for the November Offering. Banc of America is a full-service U.S. investment bank and brokerage firm. Banc of America, as one of the underwriters for King’s November Offering, sold and distributed 3,480,900 shares of King common stock to the investing public pursuant to the November Prospectus and had the option to

purchase an additional 3,075,000 shares on a pro rata basis to cover over-allotments, which they partially exercised.

37. Defendant UBS Warburg (“UBS”) was one of four lead underwriters for the November Offering. UBS is a leading global securities and investment banking firm, providing a full spectrum of products to institutional and corporate clients, intermediaries, governments and hedge funds worldwide. UBS, as one of the underwriters for King’s November Offering, sold and distributed 3,480,900 shares of King common stock to the investing public pursuant to the November Prospectus and had the option to purchase an additional 3,075,000 shares on a pro rata basis to cover over-allotments, which they partially exercised.

38. Each of the defendants in ¶¶34-37 (collectively the “Underwriter Defendants”), by virtue of their role in underwriting the November Offering, was responsible for ensuring the truth and accuracy of the various statements contained in the July Registration Statement filed in connection with the November Offering.

IV. SIGNIFICANT NON-PARTY

39. In 1994, John Gregory founded and organized the Benevolent Fund, a nonprofit corporation originally located at the same address as King, and now located across town at 1119 Commonwealth Ave., Bristol, Virginia. The Benevolent Fund delivers medical supplies and other health care related products to needy communities and families in underprivileged foreign countries. In its tax Form 990 filed with the

Internal Revenue Service (“IRS”) for 1999, the Benevolent Fund specifically identifies itself as an organization related to King.

40. The Benevolent Fund was at all relevant times herein controlled by members of the Gregory family. John Gregory has served as President of the Board of Directors of the Benevolent Fund since its inception. Mary Ann Blessing, a sister of Jefferson, Joseph, James and John Gregory, served as the Chief Operating Officer from its inception until approximately January 2001 and currently serves as a director and Treasurer of the Board of Directors. John Gregory and Mary Ann Blessing were authorized to co-sign checks on behalf of the Benevolent Fund. Mary Ann Blessings’ husband, Herschel Blessing, an Executive Vice-President of King until July 1, 2002, has served as a director of the Benevolent Fund since 1999. Carol Shrader, defendant Shrader’s mother, has been a director since 1998. Jefferson, James and Joseph Gregory served as members of the Board of Directors of the Benevolent Fund from 1999-2002.

41. As reported in the Benevolent Fund’s Annual Corporate Reports filed with the Secretary of State for the State of Tennessee, from 1998-2002, no less than 8 of 11 members of the Benevolent Fund’s Board of Directors were either Gregorlys or family members of the Gregorlys or an executive officer of King. Moreover, every officer of the Benevolent Fund from 1998-2003 was a Gregory family member, including John Gregory’s uninterrupted tenure as President.

42. King used the Benevolent Fund for public relations, touting it as its non-profit organization that donates pharmaceuticals and pharmaceutical products around the

world. According to a former King employee who attended a new employee training seminar in 2001, King showed the new employees a slide show presentation complete with slides of the Benevolent Fund and called the Fund “our non-profit organization.”

V. CLASS ALLEGATIONS

43. Lead Plaintiffs and the Jones Merger Lead Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of the following class (the “Class”): (i) all persons and entities who exchanged shares of Jones Pharma common stock for shares of King common stock, pursuant to the Jones Merger Prospectus and Proxy, and who were damaged thereby and/or all persons and entities who were solicited to vote on the Jones Merger pursuant to the Jones Merger Prospectus and Proxy, and who were damaged thereby; (ii) all persons and entities who purchased shares of King common stock pursuant to, or traceable to, the November Offering, and who were damaged thereby; and (iii) all persons and entities who purchased King common stock on the open market between February 16, 1999 - the first day of trading after King announced its financial results for fiscal year ended December 31, 1998 – through March 10, 2003, inclusive, including all persons and entities who purchased shares of King common stock pursuant to, or traceable to, the April Offering, and who were damaged thereby. Excluded from the Class are: Defendants herein; members of the families of each of the individual defendants; any parent, subsidiary, affiliate, partner, officer, executive or director of any defendant; any

entity in which any such excluded person has a controlling interest; and the legal representatives, heirs, successors and assigns of any such excluded person or entity.

44. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to plaintiff at the present time and can only be ascertained from books and records maintained by King and/or its agent(s), plaintiffs believe that Class members number in the thousands. As of July 24, 2003, the Company had 241,036,135 shares of common stock issued and outstanding which, from the beginning of the Class Period until May 23, 2000, traded on the NASDAQ National Market, an efficient market, and thereafter traded on the New York Stock Exchange, also an efficient market. During the Class Period, King was followed and reported on by analysts at numerous securities firms, including Thomas Weisel Partners, Merrill Lynch, UBS, Wachovia Securities, JP Morgan, Citigroup Smith Barney and Banc of America.

45. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by defendants' acts and omissions as alleged herein;

(b) whether the registration statement, prospectus and prospectus supplements filed with the SEC in connection with the November Offering contained misstatements of material fact or omitted to state material facts necessary in order to

make the statements made, in light of the circumstances under which they were made, not misleading;

(c) whether each of the defendants had a duty to make a reasonable and diligent investigation of the statements contained in the registration statement filed with the SEC in connection with the November Offering at the time it became effective, but failed to do so;

(d) whether the proxy, registration statement and prospectus filed with the SEC in connection with the Jones Merger contained misstatements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(e) whether each of the defendants had a duty to make a reasonable and diligent investigation of the statements contained in the registration statement filed with the SEC in connection with the merger at the time it became effective, but failed to do so;

(f) whether the market price of King common stock during the Class Period was artificially inflated due to the misrepresentations complained of herein;

(g) whether plaintiffs and the other members of the Class have sustained damages and, if so, the appropriate measure thereof;

(h) solely with respect to the claims asserted in Counts VII through IX herein for violations of the Exchange Act, whether the documents, reports, filings, releases, and statements disseminated to the Class by defendants during the Class Period

misrepresented material facts about the business, performance, and financial condition of King;

(i) solely with respect to the claims asserted in Counts VII through IX herein for violations of the Exchange Act, whether defendants acted knowingly or recklessly in misrepresenting material facts; and

(j) solely with respect to the claims asserted in Counts X through XI herein for violations of the Exchange Act, whether defendants acted negligently in misrepresenting material facts.

46. Lead Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class. Lead Plaintiffs have retained competent counsel experienced in class and securities litigation and intend to prosecute this action vigorously. Lead Plaintiffs are members of the Class and do not have interests antagonistic to, or in conflict with, the other members of the Class.

47. Lead Plaintiffs' claims are typical of the claims of the members of the Class. Lead Plaintiffs and all members of the Class purchased or acquired King common stock during the Class Period at artificially inflated prices and have sustained damages arising out of the wrongful course of conduct alleged herein.

48. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for the Class members individually to seek redress for the wrongful

conduct alleged. Lead Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

VI. FACTUAL ALLEGATIONS

A. General Background

49. King is a vertically integrated pharmaceutical company that manufactures, markets, and sells primarily branded prescription pharmaceutical products. The Company markets its products to general/family practitioners and internal medicine physicians, cardiologists, endocrinologists, obstetrician/gynecologists and hospitals across the United States and Puerto Rico. King also provides contract manufacturing for a number of pharmaceutical and biotechnology companies.

50. King's business strategy entails acquiring brand name pharmaceutical products from larger companies that have lost interest in, or lack the time and resources to market the product. King acquires these branded pharmaceuticals and increases their sales by focused marketing and promotion. King sold its branded pharmaceuticals primarily through its wholly-owned subsidiary, Monarch.

B. King Agrees To Rebates With
Managed Care Companies and Medicaid

51. A critical aspect of King's business requires successfully convincing managed care companies and Medicaid to place King's drugs on their formularies - a list identifying the prescription drugs for which a particular managed care company or Medicaid covers at least part of the expense. Drugs on formularies are assigned lower co-pays, leading to increased sales. To get a drug on a formulary, pharmaceutical

companies must negotiate the price of their drugs with the managed care companies. These managed care companies enroll millions of members, have a great deal of buying power, and usually obtain steep discounts from the pharmaceutical companies.

52. On November 5, 1990, Congress enacted the Omnibus Budget Reconciliation Act (“OBRA”) of 1990, which, among other provisions, established the Medicaid drug rebate program requiring these negotiated discounts be passed on to Medicaid, the largest single payer for prescription drugs. To be eligible for the Medicaid program, a company must sign the Medicaid Rebate Agreement, which requires the company to report to Medicaid its average manufacturer price (“AMP”) and “Best Price” information for each covered drug within 30 days of signing the agreement, and to update these prices quarterly. The AMP is the average price paid to a manufacturer by retail pharmacies or wholesalers for drugs distributed to the retail pharmacy “class of trade.” The “Best Price” is the lowest price any purchaser paid for that drug. Under the reimbursement program, Medicaid is guaranteed the “Best Price” on any covered drug. As of October 2003, approximately 550 pharmaceutical companies, including King, participated in the rebate program.

53. Rebates owed to Medicaid are calculated using the AMP and Best Price. In general, the rebate amount equals the greater of: (1) a fixed percentage (approximately 15% for branded pharmaceuticals and 11% for generics) of the AMP; or (2) the difference between the AMP and the lowest price any purchaser paid for that drug, known as the drug’s “Best Price.” Medicaid determines the rebate amount based on the

information provided by the pharmaceutical manufacturers and forwards the information to the state programs. The state programs then prepare the rebate invoices and bill the company on a quarterly basis. Interest accrues on unpaid rebates 38 calendar days after the invoice is sent to the pharmaceutical manufacturer.

VII. THE FALSE AND MISLEADING STATEMENTS IN KING'S OFFERING DOCUMENTS

A. The Jones Merger

54. On July 28, 2000, King filed its Registration Statement on Form S-4 covering its merger with Jones Pharma in a stock-for-stock transaction ("Jones Merger Registration Statement") for approximately \$2.4 billion. On August 11, 2000, King filed the Jones Merger Prospectus and Proxy with the SEC (collectively, "Jones Merger Prospectus"). In the merger, King exchanged approximately 73 million shares of its common stock for all of the outstanding shares of Jones Pharma. Each share of Jones Pharma was exchanged for 1.125 shares of King common stock. After the merger, Jones Pharma became a wholly-owned subsidiary of King. John, Jefferson, and Joseph Gregory signed the Jones Merger Registration Statement along with Shrader, Bourne, DeFriece, Deavenport, Rooker and Williams.

55. The Jones Merger Registration Statement and Jones Merger Prospectus and Proxy included the Merger Agreement between the two companies, which was signed by John Gregory as Chairman of the Board and CEO of King, and Jones, as Chairman of the Board, President and CEO of Jones Pharma. Under Section 5.6(b) of the Merger Agreement, King represented the following:

The audited consolidated financial statements and unaudited interim financial statements of King included in the King SEC Reports complied in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto. The financial statements, including all related notes and schedules, contained in the King SEC Reports (or incorporated by reference therein) present fairly in all material respects the consolidated financial position of King and the King subsidiaries as at the respective dates thereof and the consolidated results of operations and cash flows of King and the King Subsidiaries for the periods indicated, in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be noted therein) and subject in the case of interim financials statements to normal year-end adjustments.

56. Section 5.7 of the Merger Agreement represented that:

Neither King nor any of the King Subsidiaries has any liabilities or obligations of any nature, whether or not accrued, contingent or otherwise, except (a) liabilities or obligations reflected in the audited consolidated financial statements of King included in the King SEC Reports through the date of the filing of King's Annual Report on Form 10-K in respect of the fiscal year ended December 31, 1999, (b) liabilities or obligations as of December 31, 1999, incurred in the ordinary course of business and of a character or amount not required to be reflected in such Annual Report, (c) liabilities or obligations incurred in the ordinary course of business consistent with past practice since December 31, 1999, which have not had, and are not reasonably likely to have, a Material Adverse Effect on King and (d) liabilities or obligations which have not had and are not reasonably likely to have a Material Adverse Effect on King.

57. On page 23 of the Jones Merger Registration Statement, King included in a list of risk factors that the “FAILURE TO COMPLY WITH GOVERNMENT REGULATIONS COULD AFFECT KING'S ABILITY TO OPERATE ITS BUSINESS.” Nevertheless, under Section 5.25(e) of the Merger Agreement, entitled “Regulatory Compliance,” King provided assurance that:

Neither King nor any King Subsidiary, or any officer, employee or agent of King or any King Subsidiary has made any untrue statement of a material fact or fraudulent statement to the FDA or other Governmental Entity, failed to disclose a fact required to be disclosed to the FDA or any other Governmental Entity, or committed an act, made a statement, or failed to make a statement that, at the time such disclosure was made, could reasonably be expected to provide a basis for the FDA or any other Governmental Entity to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities", set forth in 56 Fed. Reg. 46191 (September 10, 1991) or any similar policy.

58. The Jones Merger Registration Statement and Prospectus also contained King's financial results for fiscal years 1998 and 1999 (which included the retroactive effect of King's February 25, 2000 merger with Medco). For fiscal 1998 - after giving effect to the earlier merger with Medco - King reported net sales of approximately \$158.2 million, operating income of approximately \$65.2 million, net income of approximately \$37.2 million and diluted earnings per share of \$0.47. For fiscal 1999 - after giving effect to the Medco merger - King reported net sales of approximately \$348.3 million, operating income of approximately \$136.8 million, net income of approximately \$50.99 million and diluted earnings per share of \$0.61. The Jones Merger Registration Statement and Prospectus also represented that King had generated revenues of \$113.3 million for the fourth quarter of 1999.

59. The Jones Merger Prospectus also included specific information with respect to the sale of its flu-vaccine, Fluogen, and noted the significance of sales of Fluogen in recent quarters. Specifically, King stated: "During 1999 King derived revenues primarily from the sales of Altace(R), Lorabid(R), Fluogen(R) and

Cortisporin(R).” More specifically, King represented that: “Altace(R), Lorabid(R), Fluogen(R), and the Cortisporin(R) product lines, collectively accounted for approximately 58.6% of net sales for 1999.” King further represented that “Fluogen(R)'s gross sales totaled \$32.0 million, while net sales equaled \$28.7 million, for the year ended December 31, 1999. Gross profit for Fluogen(R) equaled \$6.9 million for the same period.”

60. Additionally, the Jones Merger Prospectus incorporated by reference:

- King’s 1999 10-K (excluding the financial statements which were restated on a current report on Form 8-K filed June 23, 2000). The 1999 10-K, in turn, included King’s financial results for fiscal 1998; and
- King’s current report filed with the SEC on June 23, 2000 on the Form 8-K, containing King’s restated results for fiscal years ended December 31, 1997, 1998, 1999 as they appeared in the 1999 10-K to reflect King’s three for two stock split (“1999 Restated 8-K”).

61. The Jones Merger Prospectus and the 1999 Restated 8-K, as incorporated by reference into the Jones Merger Prospectus, represented that King adhered to the following revenue recognition policy: “Sales are reported net of an estimate for returns and allowances, rebates and chargebacks when goods are shipped to the customer.” Thus, King represented that its revenues from product sales were recorded net of Medicaid rebates.

62. Additionally, as reported in King's 1999 Restated 8-K, and incorporated into the Jones Merger Prospectus, for fiscal 1999, King had net sales of approximately \$348.3 million, revenues of approximately \$379.9 million, operating income of approximately \$136.8 million, net income of approximately \$50.99 million, and diluted earnings per share of \$0.61. In addition, according to the 1999 Restated 8-K, as incorporated into the Jones Merger Prospectus, King represents that it had \$266,000 and \$12,507,000 in accrued rebate expenses, in 1998 and 1999, respectively. Both the 1999 10-K and the 1999 Restated 8-K represented that they "present fairly" King's financial results for fiscal 1998 and 1999.

63. The 1999 10-K, as incorporated by reference into the Jones Merger Prospectus, also represented that the Benevolent Fund was independent of King, rather than a related party to whom King sold products without disclosing the related party nature of these sales:

King Pharmaceuticals Benevolent Fund, Inc. (the "Benevolent Fund") is a nonprofit corporation organized under the laws of the Commonwealth of Virginia and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The Board of Directors of the Benevolent Fund includes John M. Gregory, Joseph R. Gregory, Jefferson J. Gregory, James E. Gregory and R. Henry Richards, M.D. who are also executive officers of the Company. Messrs. John M., Joseph R. and Jefferson J. Gregory are also directors of King. King advanced \$1.0 million in 1997 to the Benevolent Fund which was used for general operating purposes. At December 31, 1999, the Benevolent Fund was not indebted to King. The Benevolent Fund is independent of King, maintains its own accounting records and its activities are not directly related to the business of King. We donated inventory with a cost of approximately \$1.8 million to the Benevolent Fund in 1999.

64. Each of the representations referred to above in ¶¶54-63, was materially false and misleading, or omitted to state facts necessary to make the statements made, in light of the circumstances in which they were made, not misleading. Indeed, King's misstatements caused the Company's revenues, net sales, operating income, net income, and earnings per share for the periods reported in the Jones Merger Prospectus to be overstated by millions of dollars, in direct contravention of GAAP because King: (i) underaccrued amounts owed to Medicaid and other governmental pricing programs; and (ii) failed to disclose that it was managing its earnings by selling to the Benevolent Fund, a related party.

65. In addition, the statements incorporated into the Jones Registration Statement and Prospectus by virtue of being made in the Merger Agreement were materially false and misleading because: (i) the audited and unaudited financial results did not present fairly the financial position of King; (ii) King omitted to disclose its failure to follow applicable Medicaid regulations; and (iii) King underaccrued amounts owed to Medicaid.

1. Underaccruals Of Rebates Owed To Medicaid

66. On July 29, 2003, King filed with the SEC its annual report on the Form 10-K for the period ended December 31, 2002 (the "2002 10-K"). In the 2002 10-K, King disclosed that the Company failed to properly reimburse Medicaid and other governmental pricing programs from 1998 through 2002. Specifically, King admitted

that its “calculations related to Medicaid and other governmental pricing programs have not followed all aspects of the prescribed methodology under the applicable statutes.”

67. Consequently, for fiscal 1998 and 1999, the Company stated that it inflated its revenues (net sales) by approximately \$2.46 million and \$6.48 million, respectively. In fiscal 1998, King states that it overstated its operating income by approximately \$2.46 million, or 4%, as originally reported, and its net income by \$1.518 million, or 7%, as originally reported. In fiscal 1999, as originally reported, King states that it overstated its operating income by approximately \$6.37 million, or approximately 5%, as originally reported, and its net income by \$3.93 million, or approximately 9%, as originally reported. The Company also estimates that its failure to properly reimburse Medicaid inflated its diluted earnings per share by \$0.01 in 1998 and by \$0.02 in 1999. For the first quarter of 2001, King stated that it failed to properly reimburse Medicaid \$967,000. King’s estimates of the amounts it owes Medicaid and other governmental pricing program exclude any interest, late fees or penalties.

68. King’s statement concerning its accrual for rebates was also false and misleading because, as disclosed in the Company’s 2002 10-K, King underaccrued for rebates to Medicaid by \$2.5 million and \$6.5 million in 1998 and 1999 respectively. As such, the amounts accrued for rebates on King’s balance sheet were materially understated by over 90% in 1998 and over 32% in 1999. King’s statements concerning its accrual for rebates in 2000 were similarly false and misleading. King estimates that it

underaccrued for Medicaid rebates by \$5.9 million in 2000. As such, the amount accrued for rebates on King's balance sheet was materially understated by over 24% in 2000.

69. According to the Company's 2002 10-K, the inflated revenues and under accruals relate to:

(1) modifications to the Company's methodologies for calculating AMP and best price (both of which are reported to the government and used in determining amounts due under Medicaid and other governmental and, in certain respects, ambiguous areas of Medicaid rebate laws), (2) recently compiled information with respect to the class of trade of the Company's direct and indirect customers that affect the Company's past calculations of AMP, and (3) the correction of certain immaterial errors in the calculation of AMP and best price.

70. The Company's accrual adjustment, which totaled \$46.5 million for the period 1998 through 2002, reflects both Medicaid underpayments and amounts owing to other governmental agencies, such as the Department of Veterans Affairs and the Public Health Services, which uses payment formulas similar to Medicaid under its rebate program.

71. In the 2002 10-K, the Company also revealed that its auditors had identified a "significant deficiency" in its internal controls with respect to its compliance with Medicaid reimbursement requirements. The existence of a "significant deficiency" is a reportable condition under Generally Accepted Auditing Standards ("GAAS"), specifically AU § 325, ¶2, and signals a serious problem in the "design or operation of internal control, which could adversely affect the organization's ability to initiate, record, process, and report financial data consistent with the assertions of management in the

financial statements.” King admitted that it had to undertake substantial steps, in part, to correct these deficiencies so that it could comply with Medicaid and other governmental pricing programs. The Company further admitted that although it began the process of implementing a new information technology system for Medicaid compliance in November 2000, the new system was not operational until some point after April 15, 2003.

72. King’s disclosures relating to its failure to properly pay or charge Medicaid followed King’s announcement on March 11, 2003 that the SEC had begun a formal investigation into the Company and had served it with a subpoena for certain documents. In particular, according to King, the SEC sought documents pertaining to King’s “best price” lists, all documents relating to the pricing of its pharmaceutical products to any governmental agency during 1999, the accrual and payment of rebates on Altace from 2000 to present and other general requests (such as organizational charts, board minutes, internal audit documents, charts of accounts and trial balances for 1999 through the present, and employee telephone directories).

2. The Failure To Disclose Two Material Related Party Transactions With The Benevolent Fund

73. The Jones Merger Prospectus was also materially false and misleading by failing to disclose that the Company sold drugs, including Fluogen, in two separate related party transactions with the Benevolent Fund, the non-profit organization controlled by the Gregory family, late in the fourth quarter of 1999, through a third-party

distributor. As admitted by the Company in its 2002 10-K, King sold pharmaceuticals to the Benevolent Fund on two separate occasions in November and December 1999: On November 22, 1999, King sold \$2,775,000 of pharmaceuticals, including Fluogen vials, to a “third party distributor” (who Lead Plaintiffs’ counsel has identified through its investigation as Castellon, Inc.), who in turn, sold the drugs to the Benevolent Fund. In the transactions, King sold 150,000 of the 158,000 vials of Fluogen remaining in its inventory. This single sale, which occurred at the end of the typical flu vaccine selling season, represented the Company’s largest sale of Fluogen during the 1999-2000 flu season.

74. Thereafter, on December 27, 1999, King sold \$825,075 worth of Fluogen syringes to the “same third-party distributor” (Castellon, Inc.), who once again, sold the drugs to the Benevolent Fund in January 2000. At the time of the transaction, King sold 30,000 of the approximately 33,000 Fluogen syringes remaining in its inventory. The Company immediately recognized revenue on both transactions in violation of GAAP as discussed below in ¶¶95-98.

75. The two Fluogen sales in November and December 1999 contributed \$601,124 to the Company’s net income, or 4.3% for the fourth quarter of 1999. Additionally, the two sales increased diluted earnings per share by \$0.01, or 4.1% of King’s fourth quarter 1999 earnings per share.

B. The November Offering

76. On November 1, 2001, King completed a public offering of 16 million shares of its common stock at \$38.00 per share for proceeds of approximately \$588 million. In addition, John and Joseph Gregory sold 4.5 million shares in the November Offering for total proceeds of approximately \$165 million. Banc of America, CFSB, JP Morgan, and UBS Warburg, served as the lead underwriters in the November Offering.

77. On July 3, 2001, in connection with the November Offering, King filed with the SEC and released to the public a Shelf Registration Statement on the Form S-3. The July Registration Statement covered the sale of up to \$1.3 billion of King securities, including common stock. The July Registration Statement also covered the sale by John Gregory and Joseph Gregory, as “selling shareholders,” of up to \$200 million of their personal King common stock. King filed three amendments to the July Registration Statement on August 10, 2001, September 7, 2001 and September 20, 2001. On September 25, 2001, King filed with the SEC and released to the public a Prospectus Supplement covering the sale of 16 million shares of common stock by King and the sale of 4.5 million shares by John and Joseph Gregory as “selling shareholders.” Finally, on November 5, 2001, King filed with the SEC and released to the public a Prospectus Supplement to the September Prospectus Supplement, covering the sale of 16 million shares by King and 4.5 million by John and Joseph Gregory at a price of \$38.00 per share. The documents described herein are collectively referred to as the “November Prospectus.” John, Jefferson, and Joseph Gregory, and Lattanzi, along with Bourne,

Deavenport, Defriece, Jordan, Moyer, and Roker signed the July Registration Statement. The July Registration Statement was declared effective on September 25, 2001.

78. The July Registration Statement, on page 20, repeated the Company's year end financial information for fiscal 1998, 1999, 2000 and the first quarter of 2001 by expressly setting out its financial results for each of those periods. (As set forth in the July Registration Statement, however, the financial results for fiscal 1998, 1999 and 2000 gave retroactive effect to the Jones Merger which took place in August 2000 and thus included the financial performance of Jones Pharma during those years). For fiscal 1998, the July Registration Statement, as amended, King reported net sales of approximately \$261.6 million, revenues of \$294.4 million, operating income of approximately \$105.1 million, net income of \$79.5 million, and earnings per share of \$0.39. For fiscal 1999, the July Registration Statement, as amended, reported net sales of approximately \$480.8 million, revenues of approximately \$512.5 million, operating income of approximately \$209.9 million, net income of approximately \$99.9 million and diluted earnings per share of \$0.47. For fiscal 2000, the July Registration Statement, as amended, reported net sales of \$578.8 million, revenues of approximately \$620.3 million, operating income of approximately \$184.7 million, net income of approximately \$64.5 million, and diluted earnings per share of \$0.29.

79. The July Registration Statement, as amended, also included King's results for the period ending March 31, 2001 and financial results for the six months ended June 30, 2001. For the first quarter of 2001, King had revenues of approximately \$181.3

million. During the first half of 2001, King reported total revenues of approximately \$387.8 million.

80. In addition to its false and misleading financial results, pages 14-16 of the July Registration Statement once again included a boilerplate risk factor concerning government regulation and its affect on the Company's business. Specifically, King cautioned: "FAILURE TO COMPLY WITH GOVERNMENT REGULATIONS COULD AFFECT OUR ABILITY TO OPERATE OUR BUSINESS."

81. This boilerplate "warning" did not disclose that King was currently violating Medicaid rules and regulations because of its failure to properly pay Medicaid and related government pricing programs, as set forth in ¶¶66-72, above. King included the same boilerplate risk factors in the amendments to the July Registration statements identified in ¶80, as well as the September Prospectus Supplement and November Prospectus.

82. The November Prospectus incorporated by reference the following:

- King's annual report on the Form 10-K for the year-end December 31, 2000 filed with the SEC on March 30, 2001 ("2000 10-K");
- the Company's quarterly report on the Form 10-Q for quarter ended March 31, 2001 and filed with the SEC on May 14, 2001 (the "First Quarter 2001 10-Q");

- the quarterly report on the Form 10-Q for the period ended June 30, 2001 and filed with the SEC on August 14, 2001 (the “Second Quarter 2001 10-Q”); and
- the amended annual report for the period ended December 31, 2001 as filed with the SEC on September 20, 2001 (the “2000 10-K/A”).

83. The 2000 10-K and 2000 10-K/A, as incorporated by reference into the November Prospectus, contained the audited financial statements of King for fiscal 2000. The Company’s 2000 10-K and 2000 10-K/A, as incorporated by reference into the November Prospectus, reported that for fiscal 2000, King had net sales of \$578.8 million, net income of \$64.5 million, and diluted income per share was \$0.39. Moreover, as originally reported, King had operating income of \$213.5 million, as restated in the 2000 10-K/A, King reported operating income of \$184.7 million. The 2000 10-K and 2000 10-K/A also included the Company’s results for the 1999 10-K. As reported in the 2000 10-K and the 2000 10-K/A, in fiscal 1999, the Company reported net sales of \$480.3 million, revenues of \$512.4 million, operating income of \$209.9 million, net income of \$99.9 million and diluted earnings per share of \$0.65. The 2000 10-K and 2000 10-K/A also represented that they “present fairly” the Company’s financial results for fiscal 1999 and 2000.

84. Additionally, in King’s 2000 10-K, as incorporated into the November Prospectus, the Company represents that it had \$19.1 million in accrued rebate expense.

85. The First Quarter 2001 10-Q, as incorporated into the November Prospectus, represented that King had revenues of \$181.3 million. The First Quarter 2001 10-Q also contained the same boilerplate risk factor described in ¶80 above and further represented that: “[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included.”

86. The Second Quarter 2001 10-Q, as incorporated into the November Prospectus, represented revenues for the second quarter of \$206.5 million and diluted earnings per share of \$0.25. The Second Quarter 2001 10-Q also contained the same boilerplate risk factor as described in ¶80 above and represented that: “[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included.”

87. The 2000 10-K and 2000 10-K/A, as incorporated into the November Prospectus, also represented that the Benevolent Fund was independent of King, rather than a related party to whom King sold products without disclosing the related party nature of these sales:

King Pharmaceuticals Benevolent Fund, Inc. is a nonprofit corporation organized under the laws of the Commonwealth of Virginia and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The Board of Directors of the Benevolent Fund includes John M. Gregory, Joseph R. Gregory and Jefferson J. Gregory who are also executive officers of King. Messrs. John M., Joseph R. and Jefferson J. Gregory are also directors of King. King advanced \$1.0 million in 1997 to the Benevolent Fund which was used for general operating purposes. At December 31, 2000, the Benevolent Fund was not indebted to King. The

Benevolent Fund is independent of King, maintains its own accounting records and its activities are not directly related to the business of King. We donated to the Benevolent Fund inventory with a cost of approximately \$1.8 million in 1999 and \$3.3 million in 2000.

88. Each of the representations referred to above in ¶¶78-87, was materially false and misleading, or omitted to state facts necessary to make the statements made, in light of the circumstances in which they were made, not misleading. Indeed, King's misstatements caused the Company's revenues, net sales, operating income, net income, and earnings per share for the periods reported in the November Prospectus to be overstated by millions of dollars, in direct contravention of GAAP because, as detailed in ¶¶66-75 above, King: (i) underaccrued amounts owed to Medicaid and other governmental pricing programs; (ii) failed to disclose that it was managing its earnings by selling to a related party, the Benevolent Fund; and (iii) the audited and unaudited financial results did not present fairly the financial position of King. Moreover, because of its failure to properly accrue for amounts owed to Medicaid and other government pricing programs, for fiscal 1999, King overstated its revenues and net sales by approximately \$6.482 million, operating income by approximately \$6.37 million, and net income by approximately \$3.93 million and earnings per share, after accounting for the Jones merger, by approximately \$0.02. Additionally, for fiscal 2000, King overstated its revenues and net sales by approximately \$5.873 million and its operating income by approximately \$5.744 million. Additionally, King overstated its net income by \$3.544 million, or over 5%. King's failure to properly accrue for amounts owed to Medicaid

also inflated its earnings per share for fiscal 2000 by \$0.02. For the first quarter of 2001, King overstated its revenues by approximately \$967,000. For the second quarter of fiscal 2001, King overstated its revenues by approximately \$2.5 million and diluted earnings per share by \$0.01.

VIII. GAAP VIOLATIONS

89. SEC Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) provides that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate, despite footnote or other disclosure. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosures which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a). The responsibility for preparing financial statements that conform to GAAP rests with corporate management as set forth in § 110.02 of the AICPA Professional Standards:

The financial statements are management's responsibility . . . Management is responsible for adopting sound accounting policies and for establishing and maintaining internal control that will, among other things, record, process, summarize, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements. The entity's transactions and the related assets, liabilities, and equity are within the direct knowledge and control of management . . . Thus, the fair presentation of financial statements in conformity with [GAAP] is an implicit and integral part of management's responsibility.

90. Pursuant to these requirements, the November Prospectus, the Jones Merger Prospectus, and King's quarterly and annual reports filed with the SEC during the

Class Period represented that King's financial results were presented in accordance with GAAP. For example, King's quarterly reports on the Form 10-Q for the first and second quarters of 2001 and filed with the SEC during the Class Period, represented that its financial results were presented appropriately, in conformity with GAAP:

The accompanying unaudited interim condensed consolidated financial statements of [King] have been prepared by the Company in accordance with the instructions to Form 10-Q and Rule 10-01 of Regulations S-X . . . In the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included.

91. Despite these assurances, King's revenues and earnings were materially misstated during the Class Period because it improperly recognized revenue by failing to properly account for the proper reimbursement of Medicaid as detailed above at ¶¶66-72.

92. Further, King failed to maintain an adequate system of control which is the responsibility of management. King's management was aware of its responsibility, stating in the Report of the Audit Committee of the Board of Directors as incorporated in the Company's Annual Proxy Schedule 14A, dated May 22, 2002: "King's management is responsible for King's internal controls and financial reporting process."

93. As revealed in the Company's 2002 10-K, however, King lacked proper internal controls over its ability to comply with Medicaid and related government pricing regulations:

Changes in Internal Controls. As set forth in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section under the heading "Recent Developments," we have undertaken a substantial process to enhance our compliance with Medicaid

and other governmental pricing program requirements. *This process partially constitutes corrective action with respect to a condition that our auditors, as part of their audit of the consolidated financial statements for the year ended December 31, 2002, have identified as a significant deficiency (as defined under standards established by the American Institute of Certified Public Accountants).* (emphasis added.)

94. According to Generally Accepted Auditing Standards (“GAAS”), and specifically AU § 325 ¶2, significant deficiencies must be reported to a company’s audit committee. Significant deficiencies in the design or operation of internal control are those “which could adversely affect the organization’s ability to initiate, record, process, and report financial data consistent with the assertions of management in the financial statements.”

95. Further, as set forth in ¶¶73-75, above, King failed to disclose material related-party transactions with the Benevolent Fund, in violation of GAAP. As set forth in Statement of Financial Accounting Standards (“SFAS”) No. 57, Related Party Disclosures, financial statements are required to include disclosures of material related-party transactions. SFAS No. 57 defines related parties to include “other parties with which the [company] may deal if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.” SFAS No. 57 requires that companies disclose the following about material related party transactions:

(a) the nature of the relationship(s) involved; (b) a description of the transactions . . . for each of the periods for which income statements are presented, and such other information deemed necessary to an understanding of the effects of the transactions on the financial statements;

(c) the dollar amounts of transactions for each of the periods for which income statements are presented; and (d) amounts due from or to related parties as of the date of each balance sheet presented and, if not otherwise apparent, the terms and manner of settlement.

Pursuant to SFAS No. 57, ¶3, related-party transactions cannot be presumed to be carried out on an arm's length basis.

96. Item 404 of SEC Regulation S-K also sets out the requirements for disclosing related-party transactions in the non-financial statement portions of SEC filings, including proxy statements and the annual reports on Form 10-K. Item 404(a) requires disclosure of transactions exceeding \$60,000 in which an executive officer of the company has a material interest. The information required to be disclosed includes:

naming [the officer with the material interest] and indicating the person's relationship to the registrant, the nature of such person's interest in the transaction(s), the amount of such transactions(s) and, where practicable, the amount of such person's interest in the transaction(s).

The instructions to this section provide:

The materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other and the amount involved in the transactions are among the factors to be considered in determining the significance of the information to investors.

97. Accordingly, in failing to disclose the material sales to a related party as detailed above at ¶¶73-75, the Officer Defendants violated GAAP and caused King's financial statements to be materially false and misleading during the Class Period. In addition, King's failure to disclose the sales to the Benevolent Fund hid the true substance of the transaction and violated Financial

Accounting Standards Board (“FASB”) CON 2, *Qualitative Characteristics of Accounting Information*, states in paragraph 160:

The quality of reliability and, in particular, of representational faithfulness leaves no room for accounting representations that subordinate substance to form.

98. Due to the misstatements set forth above, King presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting principles:

(a) The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements (APB No. 28, ¶10);

(b) The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions (FASB Statement of Concepts No. 1, ¶34);

(c) The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events and circumstances that change resources and claims to those resources (FASB Statement of Concepts No. 1, ¶40);

(d) The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it. To the extent

that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

(e) The principle that financial reporting should provide information about an enterprise's financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

(f) The principle that financial reporting should be reliable in that it represents what it purports to represent. That information should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶¶58-59);

(g) The principle of completeness, which means that nothing is left out of the information that be necessary to insure that it validly represents underlying events and conditions (FASB Statement of Concepts No. 2, ¶79); and

(h) The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASB Statement of Concepts No. 2, ¶¶95, 97).

IX. COUNTS I-VI

COUNT I

Against Defendants King, John Gregory, Jefferson Gregory,
Joseph Gregory, Shrader, Bourne, Williams, Deavenport,
DeFriece And Rooker For Violations Of § 11 Of
The Securities Act In Connection With The Jones Merger

99. The Jones Merger Lead Plaintiffs and LACERA incorporate each and every allegation of ¶¶1-75, 89-98 by reference as if set forth fully herein.

100. This Count is brought pursuant to § 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of all persons or entities who exchanged their Jones Pharma common stock for King common stock in connection with the Jones Merger pursuant to the Jones Merger Prospectus. The Jones Merger Lead Plaintiffs and LACERA do not assert that the defendants named in this Count are liable for fraudulent or intentional conduct.

101. The registration statement and prospectus set forth in ¶¶55-63, above, ever inaccurate and misleading, contained untrue statements of material facts, and omitted to state other facts necessary to make the statements contained therein not misleading. Specifically, as set forth above, the Jones Merger Prospectus was untrue and misleading in that it incorporated and included the financial results reported throughout the Class Period that were materially false and misleading, as set forth in ¶¶66-75, above. These misstatements rendered the statements made in the Jones Merger Prospectus concerning the Company's financial results during the fiscal year 1998 and 1999 materially false and misleading.

102. All defendants in this Count, with the exception of King, the issuer (whose liability for the misstatements is absolute), owed to the acquirers of the stock, including the Jones Merger Lead Plaintiffs and the other members of the Class who acquired King's common stock pursuant to the Jones Merger Prospectus, the duty to make a reasonable and diligent investigation of the statements contained in the Jones Merger Prospectus at the time they became effective, to assure that those statements were true and that there was no omission to state material facts required to be stated in order to make the statements contained therein not misleading. As such, these defendants are liable to the Jones Merger Lead Plaintiffs and the other members of the Class.

103. The Company is the registrant for the King shares of common stock exchanged in the Jones Merger. As the issuer of these shares of common stock, King is liable to the Jones Merger Lead Plaintiffs and the other members of the Class who acquired King's common stock pursuant to the Jones Merger Prospectus for the misstatements and omissions contained therein under § 11 of the Securities Act.

104. All of the other defendants named in this Count: (i) signed the Jones Registration Statement; or (ii) were directors of King at the time the Jones Registration Statement was filed with the SEC. Further, none of the defendants named in this Count made a reasonable investigation or possessed reasonable grounds for believing that the statements contained in the Jones Merger Prospectus were true and devoid of any misstatements or omissions of material fact. Therefore, each of the defendants named in this Count is liable to the Jones Merger Lead Plaintiffs, LACERA and the other members

of the Class who acquired King common stock pursuant to the Jones Merger Prospectus for the various misstatements and omissions contained therein under § 11 of the Securities Act.

105. The Jones Merger Lead Plaintiffs, LACERA and the other members of the Class exchanged their Jones Pharma for King common stock pursuant to the Jones Merger Prospectus. At the time they acquired King common stock, the Jones Merger Lead Plaintiffs, LACERA and the other members of the Class who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus were without knowledge of the facts concerning the inaccurate and misleading statements and omissions alleged herein.

106. By reason of the conduct alleged herein, each defendant named in this Count violated § 11 of the Securities Act. As a direct and proximate result of defendants' conduct, the Jones Merger Lead Plaintiffs, LACERA and the other members of the Class who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus have sustained substantial damage in connection with the exchange of their Jones stock for King common stock pursuant to the Jones Merger Prospectus.

COUNT II

Against Defendant King For Violation
Of § 12(a)(2) Of The Securities Act
In Connection With The Jones Merger

107. The Jones Merger Lead Plaintiffs and LACERA incorporate each and every allegation of ¶¶1-75, 89-106 by reference as if set forth fully herein.

108. This Count is brought pursuant to § 12(a)(2) of the Securities Act on behalf of all persons or entities who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus against King. Lead Plaintiffs do not assert that the defendants named in this Count are liable for fraudulent or intentional conduct.

109. King was a seller of a security, specifically the King stock exchanged for shares of Jones Pharma in the Jones Merger.

110. By means of the Jones Merger Prospectus, King exchanged shares of the Company's common stock with the Jones Merger Lead Plaintiffs, LACERA and the other members of the Class in return for shares of Jones Pharma common stock. The Company's actions of solicitation consisted primarily of the preparation and dissemination of the Jones Merger Prospectus.

111. The King common stock exchanged in the Jones Merger by King were sold through the use of interstate communication, the use of interstate commerce, and the use of the mails.

112. The King common stock exchanged in the Jones Merger was sold through the use of the Jones Merger Prospectus which contained untrue statements of material fact or omitted to state material facts necessary in order to make the statements made not misleading.

113. King cannot prove that it did not know, or in the exercise of reasonable care, could not have known, of the untruth or omission described in the preceding paragraph.

114. By reason of the conduct alleged herein, King violated § 12(a)(2) of the Securities Act. As a direct and proximate result of defendants' conduct, the Jones Merger Lead Plaintiffs, LACERA and the other members of the Class who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus have suffered substantial damage in connection with the exchange of their Jones Pharma stock for King common stock pursuant to the Jones Merger Prospectus.

COUNT III

Against Defendants John Gregory, Jefferson Gregory,
Joseph Gregory And Shrader For Violations Of § 15
Of The Securities Act In Connection With The Jones Merger

115. The Jones Merger Lead Plaintiffs and LACERA incorporate each and every allegation of ¶¶1-75, 89-114 by reference as if set forth fully herein. This Count is brought pursuant to § 15 of the Securities Act on behalf of all persons who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus.

116. The Officer Defendants named in this count were each control persons of King by virtue of their executive and/or directorial positions and/or their ownership of a significant percentage of the Company's outstanding stock. The Officer Defendants named in this count had the power, and exercised the same, to cause King to engage in the violations of law complained of herein and were able to and did control the contents of the Jones Merger Prospectus.

117. None of the defendants named in this Count made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Jones Merger Prospectus were true and devoid of any omissions of material fact. By reason of their top executive positions at King and their actual control over the Company's day-to-day operations, financial statements and public filings, including their intimate involvement and control over the Jones Merger Prospectus, each of the defendants named in this Count is liable jointly and severally with, and to the same extent, as King is liable to the Jones Merger Lead Plaintiffs and the other members of the Class who exchanged their Jones Pharma common stock for King common stock pursuant to the Jones Merger Prospectus as a result of the wrongful conduct alleged herein.

COUNT IV

Against Defendants King, Jefferson Gregory, John Gregory, Joseph Gregory,
Lattanzi, Bourne, Deavenport, DeFriece, Jordan, Moyer, Rooker,
CSFB, JP Morgan, Banc of America And UBS For Violations Of § 11
Of The Securities Act In Connection With The November 2001 Offering

118. Lead Plaintiffs incorporate each and every allegation of ¶¶1-117 by reference as if set forth fully herein.

119. This Count is brought pursuant to § 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of all persons who acquired King common stock pursuant to, or traceable to, the November Prospectus. Lead Plaintiffs do not assert that the defendants named in this Count are liable for fraudulent or intentional conduct.

120. Each of the registration statements and prospectuses set forth in ¶¶76-88, above, was inaccurate and misleading, contained untrue statements of material facts, and omitted to state other facts necessary to make the statements contained therein not misleading. Specifically, as set forth above, the November Prospectus was untrue and misleading in that it incorporated and included the financial results reported throughout the Class Period that were materially false and misleading, as set forth in ¶¶66-75, 89-98, above. These misstatements rendered the statements made in the November Prospectus concerning the Company's financial results during the fiscal year 1999 and the first and second quarter of fiscal year 2001 materially false and misleading. The Company's risk factors concerning compliance with applicable laws and regulations was also false and misleading because King failed to disclose that at the time of the issuance of the

November Prospectus, it was not in compliance with Medicare reimbursement regulations.

121. All defendants named in this Count, with the exception of King, the issuer (whose liability for the misstatements is absolute), owed to the purchasers of the stock, including Lead Plaintiffs and the other members of the Class, the duty to make a reasonable and diligent investigation of the statements contained in the November Prospectus at the time they became effective, to assure that those statements were true and that there was no omission to state material facts required to be stated in order to make the statements contained therein not misleading. As such, these defendants are liable to Lead Plaintiffs and the other members of the Class.

122. The Company is the registrant for the King shares of common stock sold in the November Offering. As the issuer of these shares of common stock, King is liable to Lead Plaintiffs and the other members of the Class who purchased King's common stock pursuant to the November Prospectus for the misstatements and omissions contained therein under § 11 of the Securities Act.

123. All of the defendants named in this Count: (i) signed the July Registration Statement and/or amendments thereto filed in connection with the November Offering; or (ii) were directors of King at the time that the November Prospectus was filed with the SEC. Further, none of the defendants named in this Count made a reasonable investigation or possessed reasonable grounds for believing that the statements contained in the November Prospectus were true and devoid of any misstatements or omissions of

material fact. Therefore, each of the defendants named in this Count is liable to Lead Plaintiffs and the other members of the Class who purchased King common stock pursuant to the November Prospectus for the various misstatements and omissions contained therein under § 11 of the Securities Act.

124. CSFB, JP Morgan, Banc of America and UBS were the underwriters for the November 2001 Offering. As the underwriters, CSFB, JP Morgan, Banc of America and UBS are liable to Lead Plaintiffs and the other members of the Class who purchased King common stock pursuant to or traceable to the November Prospectus for the misstatements and omissions contained therein under § 11 of the Securities Act.

125. Lead Plaintiffs and other members of the Class purchased King common stock pursuant to or traceable to the November Prospectus. At the time they purchased King common stock, Plaintiffs and the other members of the Class were without knowledge of the facts concerning the inaccurate and misleading statements and omissions alleged herein.

126. By reason of the conduct alleged herein, each defendant violated § 11 of the Securities Act. As a direct and proximate result of defendants' conduct, Lead Plaintiffs and the other members of the Class have sustained substantial damage in connection with the purchase of the common stock issued pursuant to or traceable to the November Prospectus.

COUNT V

Against Defendants King, John Gregory, Joseph Gregory,
CSFB, JP Morgan, Banc of America And UBS
For Violation Of § 12(a)(2) Of The Securities Act
In Connection With The November 2001 Offering

127. Lead Plaintiffs incorporate each and every allegation of ¶¶1-126 by reference as if set forth fully herein.

128. This Count is brought pursuant to § 12(a)(2) of the Securities Act on behalf of all purchasers of King common stock pursuant to, or traceable to, the November Prospectus against King, John and Joseph Gregory, and CSFB, JP Morgan, Banc of America and UBS. Lead Plaintiffs do not assert that the defendants named in this Count are liable for fraudulent or intentional conduct.

129. Each of the defendants named in this Count was a seller of a security, specifically King stock sold in the November Offering.

130. By means of the November Prospectus, King sold shares of the Company's common stock to Lead Plaintiffs and the members of the Class in return for proceeds of approximately \$588 million. The Company's actions of solicitation consisted primarily of the preparation and dissemination of the November Prospectus.

131. The King common stock sold in the November Offering by defendants named in this Count were sold through the use of interstate communication, the use of interstate commerce, and the use of the mails.

132. The King common stock was sold through the use of the November Prospectus which contained untrue statements of material fact or omitted to state material facts necessary in order to make the statements made not misleading.

133. The defendants named in this Count cannot prove that they did not know or, in the exercise of reasonable care, could not have known of the untruth or omission described in the preceding paragraph.

134. By reason of the conduct alleged herein, each defendant violated § 12(a)(2) of the Securities Act. As a direct and proximate result of defendants' conduct, Lead Plaintiffs and the other members of the Class suffered substantial damage in connection with the purchase of the common stock pursuant to or traceable to the November Prospectus.

COUNT VI

Against Defendants John Gregory, Jefferson Gregory,
Joseph Gregory And Lattanzi For Violations Of §15 Of
The Securities Act In Connection With The November Offering

135. Lead Plaintiffs incorporate each and every allegation of ¶¶1-134 by reference as if set forth fully herein. This Count is brought pursuant to § 15 of the Securities Act on behalf of all persons who acquired King common stock pursuant to, or traceable to, the November Prospectus.

136. The defendants named in this Count were each control persons of King by virtue of their executive and/or directorial positions and/or their ownership of a significant percentage of the Company's outstanding stock. The defendants named in

this Court had the power, and exercised the same, to cause King to engage in the violations of law complained of herein and were able to and did control the contents of the November Prospectus.

137. None of the defendants named in this Court made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the November Prospectus were true and devoid of any omissions of material fact. By reason of their top executive positions at King and their actual control over the Company's day-to-day operations, financial statements, public filings and their intimate involvement and control over the November Prospectus, each of the defendants named in this Court is liable jointly and severally with and to the same extent as King is liable to Lead Plaintiffs and the other members of the Class as a result of the wrongful conduct alleged herein.

ADDITIONAL ALLEGATIONS IN SUPPORT OF COUNTS VII TO XI

138. Lead Plaintiffs repeat and reallege each of the allegations set forth in ¶¶1-137 as if fully set forth herein. In addition, the following additional allegations pertain solely to Counts VII through XI against King, John, Jefferson, Joseph and James Gregory, Richards, Shrader, Macione and Lattanzi for violations of §§ 10(b), 14(a) and 20(a) of the Exchange Act and against John, Jefferson, Joseph and James Gregory and Macione for violations of § 20A of the Exchange Act and are not incorporated in any way to the Securities Act claims alleged in Counts I through VI.

X. THE FRAUDULENT SCHEME

139. During the Class Period, each of the Company's financial statements filed with the SEC on Forms 10-Q and Forms 10-K represented that they "presented fairly, in all material respects, the financial position of King Pharmaceuticals, Inc." in conformity with accounting principles generally accepted in the United States. These financial statements demonstrated substantial quarterly and annual growth in King's net revenues, net income and earnings per share, purportedly resulting from King's sound business strategy and shrewd acquisition strategy. Indeed, based on these financial statements, King met or exceeded Wall Street expectations for 16 consecutive quarters during the relevant period.

140. During the Class Period, King used these financial statements to raise over \$588 million through the issuance of additional shares pursuant to the November Offering, as described in detail herein at ¶¶76-88. In addition, King used the value of its stock as currency to acquire Jones Pharma as detailed herein at ¶¶54-65, and over 30 branded pharmaceutical products during the relevant period. The Officer Defendants used the value of King stock to reap over \$345 million in proceeds from stock sales during the Class Period.

141. In reality, as set forth below, King's financial statements were materially false and misleading throughout the Class Period. Specifically, throughout the relevant period, King, at the direction of the Officer Defendants, knowingly or recklessly implemented a scheme whereby the Company manipulated its numbers by underaccruing

amounts owed under the Medicaid reimbursement program, and set up false related party transactions with the Benevolent Fund at the end of the year to ensure the Company “made its numbers.”

A. Overview Of The Related Party Transactions

142. Throughout the Class Period, King, through the Officer Defendants, failed to disclose the related party transactions through which King was able to increase revenue and earnings. These related party transactions were purportedly legitimate sales of pharmaceuticals at or near the end of the year with a third party distributor. In reality, however, King and the Officer Defendants manufactured related party deals through the Benevolent Fund to ensure that the Company would beat estimates and would recognize the full revenue potential of soon to expire products.

143. The related party transactions were utilized when a King pharmaceutical product was nearing the end of its life-cycle, forcing King to take a write-off of all remaining inventory, and/or when the Company needed additional sales to increase its revenues and earnings to meet or exceed consensus Wall Street estimates. On these occasions, Mary Ann Blessing, the Benevolent Fund’s Chief Operating Officer, would call a distributor and place an order for the pharmaceutical products King needed to dump. Blessing would submit a detailed purchase order, specifying the exact purchase price, the exact quantity and the specific “lot number” required. According to the United States Food and Drug Administration (“FDA”), lot numbers are *manufacturer* specific

numbers used to identify a specific batch of product for quality control purposes. The Code of Federal Regulations defines lot numbers as follows:

“Lot number, control number, or batch number” means any distinctive combination of letter, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of drug product or other material can be determined.

21 C.F.R. §210.3 (11).

144. Faced with the detailed requirements in the purchase order and the manufacturer specific lot numbers, the third party distributor filled the order with product from King - the only manufacturer with the exact lot numbers specified in the purchase order. King immediately recognized the revenue from these related party sales without disclosing them to the investing public. The drugs were then either donated or remained in the Benevolent Fund's warehouse as inventory.

145. The Benevolent Fund, a nonprofit organization that primarily receives donations of medical supplies and food, had little financial means to legitimately purchase the pharmaceutical products. To supply the Benevolent Fund with the necessary cash, King and the Officer Defendants donated valuable King stock and cash to the Fund. According to Statement 12 attached under Part XV of the Benevolent Fund's Form 990 filed with the IRS for fiscal 1998, John and Jefferson Gregory were the largest donors of cash or stock, giving \$2 million and \$237,000 respectively. To add further liquidity to the Benevolent Fund, King donated \$75,000 in cash; Monarch, King's wholly-owned subsidiary, donated \$145,000 in cash; and Jefferson and James Gregory

donated 17,000 shares of King common stock valued at \$447,375. In addition, King loaned the Benevolent Fund \$1.67 million in January 1997, with the balance not due until December 31, 1999, for “expenses paid by King Pharmaceuticals.”

146. The Officer Defendants devised and implemented this complex structure throughout the Class Period to disguise these related party transactions, hide the artificial inflation of King’s financial results and disguise its true financial condition. A former top King employee hired to oversee the Medicaid program for King, confirmed that King used the Benevolent Fund to book sales at the end of quarterly periods when it looked like the company would not hit its sales and earnings targets.

B. Examples Of The Related Party Transactions

1. The November 1999 Related Party Transaction

147. In mid-November 1999, King had over 150,000 vials of its flu vaccine, Fluogen, remaining in inventory. Due to the seasonal nature of flu vaccine sales, the majority of sales of the vaccine, including Fluogen, occurs prior to mid-November. During the 1998-1999 flu season for example, King sold an aggregate of \$18.9 million, or 92% of its yearly total, of Fluogen prior to November 22, compared to only \$1.5 million on or after November 22. Since the flu vaccine season had essentially ended, there was no market for these 150,000 remaining Fluogen vials.

148. Therefore, sometime in mid-November 1999, Blessing called a high ranking executive at Castellon, Inc., a privately-owned, single franchise drug store located in Louisiana. According to this former high ranking executive at Castellon who

personally received the telephone call from Blessing, the Benevolent Fund asked for vials of flu vaccine and other drugs.

149. On November 19, 1999, Blessing submitted purchase order number 991001 to Castellon, Inc., specifying 150,000 vials of flu vaccine, 10ml, multi-dose, with lot numbers 2389T, 2489T and 2589T for \$18.53 per vial. The purchase order also sought 1,500 bottles of 250mg of Tetracycline, lot number 400119001 for \$15.80 per bottle and 1,500 bottles of 250mg of Penicillin VK tablets, lot number 061007 for \$15.80 per bottle. The total price of the purchase order was \$2,779,500.

150. The former executive at Castellon, Inc. confirmed that calls were made to two or three wholesalers in an attempt to fill the order. As King and the Officer Defendants knew, no other manufacturer or wholesaler had the *manufacturer specific* lot numbers nor could they match the price specified in the purchase order. This former Castellon, Inc. executive then called Monarch, King's wholly-owned subsidiary. As King and the Officer Defendants knew, Monarch was able to fill the purchase order, including the specific lot numbers and price. Castellon, Inc. placed the order with King for \$2,775,000 – providing a profit for Castellon, Inc. of \$4,500.

151. The Benevolent Fund paid Castellon, Inc. \$2,779,500 for the pharmaceuticals with check number 2379, dated December 9, 1999 and co-signed by Blessing and John Gregory. Castellon, Inc. paid Monarch \$2,775,000 with check number 6813, dated December 14, 1999. Pursuant to the bill of lading, Castellon, Inc. shipped the product to the Benevolent Fund on December 8, 1999.

152. This former executive confirmed that Castellon, Inc. rarely dealt with flu vaccines and this was the first time Castellon, Inc. had purchased flu vaccines from Monarch or King.

153. As of November 19, 1999 King had an existing inventory of 158,000 Fluogen vials. Of the remaining 158,000 Fluogen vials, 150,000, or 95%, were sold in the related party transaction with the Benevolent Fund. After the November transaction, 8,000 Fluogen vials remained, of which only 2,300, or just 29%, were sold prior to December 31, 1999, at which point King wrote off the remaining 5,700 vials. The November related party transaction with the Benevolent Fund was, by more than 100%, the single largest sale of Fluogen during the 1999-2000 flu season. The next largest single sale during the 1999-2000 flu season was 63,945 vials.

2. The December 1999 Related Party Transaction

154. Thereafter, on December 27, 1999, 4 days before the end of King's fiscal year 1999, King negotiated another related party transaction with this same third-party distributor, Castellon, Inc. Specifically, in the December transaction, Monarch sold 30,000 Fluogen syringes to Castellon, Inc. for \$825,075. Castellon, Inc. resold those 30,000 syringes to the Benevolent Fund in January 2000 for \$871,500. The Benevolent Fund paid Castellon, Inc. with check number 2472, dated January 10, 2000 for \$871,500 and co-signed by Blessing and John Gregory. Again, as the Benevolent Fund's 1998 Form 990 reveals, King and the Officer Defendants funneled the necessary cash to the

Benevolent Fund to fund these transactions, through the “donations” referred to in ¶145, above.

155. Prior to this December related party transaction, King had an existing inventory of 33,000 syringes. This sale of 30,000 syringes accounted for 91% of the remaining syringes in King’s inventory. Of the 3,000 syringes in inventory following the transaction, only 300, or 10%, were sold prior to December 31, 1999. King wrote off the remaining 2,700 syringes. This single transaction with the Benevolent Fund was the third largest single sale of Fluogen syringes during the 1999-2000 flu season, with the largest single sale consisting of 30,977 syringes.

156. During the entire fiscal year 1999, the Benevolent Fund purchased a total of \$3 million in pharmaceuticals. These two transactions *accounted for over \$2.8 million, or 93%, of its total purchases.*

157. In sum, the two improper related party transactions in 1999 contributed \$601,124 of net income, or 4.3% of the fourth quarter 1999 and 1.3% of fiscal year 1999, and increased diluted earnings per share by \$0.01, or 4.1% of King’s fourth quarter 1999 and 1.3% of King’s fiscal year 1999.

158. Moreover, King and the Officer Defendants were motivated to dump Fluogen on the Benevolent Fund in late November and December 1999, based on their knowledge that the FDA was threatening a permanent injunction against King for violations of Current Good Manufacturing Practices (“cGMP”) in the manufacture, processing and packaging of Fluogen. In particular, as detailed in the FDA’s Consent

Decree of Permanent Injunction dated March 10, 2000 and sent certified mail to Jefferson Gregory, the FDA first issued a letter discussing widespread deviations from cGMP on August 14, 1998 after the FDA's March 23 to April 16, 1998 inspection.

159. A second letter from the FDA, dated August 25, 1999, resulted from observations during the FDA's inspections of May 3 to May 13, 1999 and again discussed "numerous significant cGMP deficiencies" in the manufacture of Fluogen. The FDA again conducted an inspection from October 4 through October 13, 1999. At the conclusion of the October inspection, the FDA issued a Form FDA 483 – again listing violations of cGMP, some of which were similar to those previously noted by the FDA. In November, King submitted its written response containing its plan to address the observations. This was the fourth letter King wrote to the FDA during 1999 attempting to address the FDA's findings and providing a master plan outline.

160. Finally, on March 10, 2000, the FDA ordered King to "cease and discontinue manufacturing, processing, packing, labeling, and distributing all lots of Influenza Virus Vaccine pending performance, and FDA review and acceptance." The cGMP violations cited by the FDA were not disclosed to the public until January 2000, after the two related party transactions with the Benevolent Fund and the end of the Company's fiscal year 1999. Thus, defendants sought to dispose of the remaining Fluogen vials before year-end 1999 and before the FDA issued its consent decree. Accordingly, King and the Officer Defendants knew that the Company had to manipulate

these sales with the Benevolent Fund and sell as many Fluogen vials and syringes as possible prior to the FDA issuing its Cease and Desist Order.

3. The December 2002 Related Party Transaction

161. Another example of the undisclosed related party transactions occurred in December 2002. On December 26, 2002 - 5 days before the end of its fiscal year 2002 - King sold \$4,587,571 of Cortisporin, Silvadene and Tigan to a third-party wholesaler, which in turn resold those products to the Benevolent Fund in January 2003 - the next fiscal year - for \$4,634,405. More than six months later, the Benevolent Fund had yet to distribute 77% of the Cortisporin, 59% of the Silvadene and 11% of the Tigan purchased in January 2003.

162. During the entire fiscal year 2002, King sold a total of \$42 million in these three products. This single transaction with the Benevolent Fund accounted for over 10% of King's total sales of Cortisporin, Silvadene and Tigan products and was King's largest sale of each during the entire fiscal year 2002. In addition, this single transaction accounted for \$4.6 million of the Benevolent Fund's \$4.8 million in total purchases in 2003, or 95%.

163. Moreover, defendants were motivated to dump Cortisporin on the Benevolent Fund in late 2002 because a generic replacement was near FDA approval. In fact, the FDA approved a generic for Cortisporin in April 2003, merely four months after King dumped the product on the Benevolent Fund. The approval of the generic replacement explains why the Benevolent Fund had yet to distribute 77% of the

Cortisporin purchased in January 2003. This related party transaction permitted King to improperly recognize \$4.5 million in revenue in the fourth quarter and fiscal year 2002.

C. King Admits To Overstating Its Revenues
And Income For Failing To Pay Medicaid

164. As a participant in the Medicaid Reimbursement program, King was bound by the Rebate Agreement and other applicable rules and regulations. Nevertheless, throughout the Class Period, King and the Officer Defendants, implemented a scheme whereby the Company consistently reported false AMP and “best prices” to Medicaid.

165. Throughout the Class Period, King and the Officer Defendants, knowingly or recklessly reported a false “best price” on the pharmaceuticals it registered under the Medicaid reimbursement program. In doing so, King successfully reduced the amount of money the Company paid Medicaid at the conclusion of each quarter. The underaccrual in amounts owed to Medicaid, in turn, inflated the Company’s revenues and earnings as reported throughout the Class Period.

166. Moreover, the knowing or reckless underaccrual of amounts owed to Medicaid violated the Company’s own revenue recognition policy of accounting for chargebacks and rebates at the time of the sale and was a direct violation of GAAP, as described in ¶¶89-94, 98.

167. According to a former King executive who oversaw King’s sales of pharmaceuticals until mid 1999, pharmaceutical companies are responsible for keeping

track of its best price on a “per tablet basis.” This former employee stated that Medicaid relies upon the pharmaceutical industry to abide by the applicable laws and does not monitor each and every contract. Thus, King and the Officer Defendants knew they were responsible for keeping track of this best price, but also knew they could exploit Medicaid’s inability to monitor closely its contract with the Company.

168. According to the senior executive who worked at King during the Class Period and was responsible for managing King’s contracts with Medicaid and managed care companies, King’s top executives chose not to make the mandatory payments under the applicable laws because, “it knocks down your earnings.” According to this former executive, the directive to avoid paying Medicaid came from top management, including Jefferson Gregory. This former executive stated that decisions involved the entire Gregory family.

169. Significantly, the Company revealed in its 2002 10-K, that its auditors had identified significant deficiencies with respect to King’s internal controls over its compliance with Medicaid and other governmental pricing program requirements. As detailed above at ¶¶93-94, under GAAP, “significant deficiencies” put at risk a company’s ability to initiate, record, process, and report financial data consistent with the assertions of management in the financial statements.

XI. ADDITIONAL ALLEGATIONS OF SCIENTER

170. Defendants named in Count VII, below, acted with scienter throughout the Class Period, in that they either had actual knowledge of the misrepresentations and/or

omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose the true facts, even though such facts were readily available to them based upon the following facts. In addition to the Officer Defendants' orchestration of the various fraudulent transactions with the Benevolent Fund, including John Gregory, the CEO of King, co-signing the checks from the Benevolent Fund for the flu vaccine vials, as set forth in ¶¶147-163, above, defendants' scienter is evidenced by the following: (i) their sale of \$345 million in stock during the Class Period, including \$192 million by John Gregory alone; (ii) the Company's admission that its results were misstated; (iii) the use of its stock as currency for corporate acquisitions; (iv) the intentional manipulating of financial results to meet earnings estimates; and (v) defendants' intentional or reckless violation of GAAP.

A. Defendants' Substantial Sales Of Stock During
The Class Period Further Supports Scienter

171. By overstating the Company's financial condition throughout the Class Period and by engaging in related party transactions with their nonprofit organization to prematurely and improperly recognize otherwise unattainable revenues, these defendants were able to realize enormous financial windfalls through the sale of their King common stock. In addition, the timing of the sales was highly unusual: the Company's shares were at all time highs; none of the defendants sold shares prior to, or after, the Class Period; and the Company was completing a \$588 million secondary offering of shares. Moreover, at the time of the sales, most, if not all, of the analysts following the Company

had BUY or STRONG BUY recommendations on the stock. The unusual stock sales, in both timing and amount, are reflected in the following tables summarizing each defendants' sales in King common stock throughout the Class Period as reflected on the Forms 4 and 5 filed by each defendant with the SEC.

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
James Gregory	9/3/1999	50,000	\$32.63	\$1,631,250.00
James Gregory	9/3/1999	1,673(a)	\$32.63	\$54,589.99
James Gregory	9/3/1999	1,673(a)	\$32.63	\$54,589.99
James Gregory	12/15/1999	3,000	\$51.64	\$154,920.00
James Gregory	12/15/1999	2,000	\$51.63	\$103,260.00
James Gregory	12/15/1999	5,000	\$51.75	\$258,750.00
TOTAL		63,346		\$2,257,359.98

(a) Sale made by self and spouse as custodians for minor.

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
Jefferson Gregory	8/9/1999	50,000	\$28.00	\$1,400,000.00
Jefferson Gregory	12/15/1999	50,000	\$50.00	\$2,500,000.00
Jefferson Gregory	11/7/2000	100,000	\$48.43	\$4,843,000.00
Jefferson Gregory	2/14/2001	30,000(b)	\$43.98	\$1,319,355.00
Jefferson Gregory	2/22/2001	20,000(b)	\$44.31	\$886,160.00
Jefferson Gregory	2/27/2001	16,875(c)	\$45.10	\$761,062.50
Jefferson Gregory	4/10/2001	30,000(b)	\$40.03	\$1,201,014.00
Jefferson Gregory	4/25/2001	20,000(b)	\$40.20	\$804,042.00
Jefferson Gregory	10/1/2001	40,667(b)	\$41.34	\$1,681,198.18
Jefferson Gregory	10/2/2001	26,000(b)	\$41.64	\$1,082,723.20
Jefferson Gregory	1/2/2002	40,000(b)	\$41.89	\$1,675,600.00
Jefferson Gregory	1/3/2002	26,667(b)	\$40.75	\$1,086,680.25
Jefferson Gregory	4/1/2002	30,000(b)	\$34.59	\$1,037,700.00
Jefferson Gregory	4/2/2002	36,667(b)	\$34.56	\$1,267,211.52
TOTAL		516,876		\$21,545,746.65

(b) Sales made by Jefferson Gregory Blind Trust

(c) Sale made by spouse

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
John Gregory	12/15/1999	165,000	\$49.91	\$8,235,150.00
John Gregory	12/15/1999	35,000(e)	\$49.91	\$1,746,850.00
John Gregory	12/15/1999	15,000(g)	\$51.50	\$772,500.00
John Gregory	3/15/2001	250,000(g)	\$38.56	\$9,640,000.00
John Gregory	5/1/2001	125,000(d)	\$40.89	\$5,111,250.00
John Gregory	5/1/2001	62,500(f)	\$40.89	\$2,555,625.00
John Gregory	5/3/2001	125,000(d)	\$40.96	\$5,120,000.00
John Gregory	5/3/2001	62,500(f)	\$40.96	\$2,560,000.00
John Gregory	6/5/2001	100,000	\$55.58	\$5,558,000.00
John Gregory	6/5/2001	87,800(e)	\$55.58	\$4,879,924.00
John Gregory	10/1/2001	83,333(f)	\$41.34	\$3,444,986.22
John Gregory	10/1/2001	166,666(d)	\$41.34	\$6,889,972.44
John Gregory	10/2/2001	166,667(d)	\$41.64	\$6,940,013.88
John Gregory	10/2/2001	83,334(f)	\$41.64	\$3,470,027.76
John Gregory	11/7/2001	750,000	\$36.80	\$27,600,000.00
John Gregory	11/7/2001	1,750,000(e)	\$36.80	\$64,400,000.00
John Gregory	1/2/2002	166,667(d)	\$41.89	\$6,981,680.63
John Gregory	1/2/2002	83,334(f)	\$41.89	\$3,490,861.26
John Gregory	1/3/2002	166,666(d)	\$40.75	\$6,791,639.50
John Gregory	1/3/2002	83,333(f)	\$40.75	\$3,395,819.75
John Gregory	4/1/2002	166,666(d)	\$34.59	\$5,764,976.94
John Gregory	4/2/2002	166,667(d)	\$34.56	\$5,760,011.52
John Gregory	4/1/2002	83,333(f)	\$34.59	\$2,882,488.47
John Gregory	4/2/2002	83,334(f)	\$34.56	\$2,880,023.04
TOTAL		5,027,800		\$196,871,800.41

(d) Sales made by John Gregory Blind Trust

(e) Sales made by S.J. LLC (a limited liability company, the primary members of which are John Gregory's children)

(f) Sales made by S.J. LLC Blind Trust

(g) Sales made by Lazarus Foundation (a private foundation controlled by John Gregory)

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
Joseph Gregory	9/8/1999	30,000	\$33.46	\$1,003,749.00
Joseph Gregory	9/9/1999	50,000	\$34.40	\$1,719,790.00
Joseph Gregory	9/9/1999	10,000(i)	\$34.40	\$344,000.00
Joseph Gregory	9/10/1999	10,000	\$35.75	\$357,500.00

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
Joseph Gregory	12/15/1999	80,000	\$51.50	\$4,120,000.00
Joseph Gregory	3/13/2001	200,000	\$37.26	\$7,452,300.00
Joseph Gregory	3/15/2001	50,000	\$38.65	\$1,932,580.00
Joseph Gregory	5/1/2001	50,000(h)	\$40.89	\$2,044,665.00
Joseph Gregory	5/1/2001	25,000(j)	\$40.89	\$1,022,332.50
Joseph Gregory	5/3/2001	50,000(h)	\$40.95	\$2,047,665.00
Joseph Gregory	5/3/2001	25,000(j)	\$40.96	\$1,023,882.50
Joseph Gregory	7/2/2001	66,667(h)	\$39.66	\$2,643,933.22
Joseph Gregory	7/2/2001	33,333(j)	\$39.66	\$1,321,946.78
Joseph Gregory	7/3/2001	66,667(h)	\$39.31	\$2,620,566.44
Joseph Gregory	7/3/2001	33,333(j)	\$39.31	\$1,310,263.56
Joseph Gregory	11/1/2001	66,667(h)	\$41.34	\$2,756,053.78
Joseph Gregory	11/1/2001	33,334(j)	\$41.34	\$1,378,047.56
Joseph Gregory	11/2/2001	66,667(h)	\$41.64	\$2,776,227.21
Joseph Gregory	11/2/2001	33,333(j)	\$41.64	\$1,388,092.79
Joseph Gregory	11/7/2001	1,500,000	\$36.80	\$55,200,000.00
Joseph Gregory	11/7/2001	500,000(i)	\$36.80	\$18,400,000.00
Joseph Gregory	1/2/2002	66,667(h)	\$41.89	\$2,792,680.63
Joseph Gregory	1/2/2002	33,334(j)	\$41.89	\$1,396,361.26
Joseph Gregory	1/3/2002	66,666(h)	\$40.75	\$2,716,639.50
Joseph Gregory	1/3/2002	33,333(j)	\$40.75	\$1,358,319.75
Joseph Gregory	4/1/2002	66,667(h)	\$34.59	\$2,306,011.53
Joseph Gregory	4/1/2002	33,334(j)	\$34.59	\$1,153,023.06
Joseph Gregory	4/2/2002	66,666(h)	\$34.56	\$2,303,976.96
Joseph Gregory	4/2/2002	33,333(j)	\$34.56	\$1,151,988.48
TOTAL		3,380,001		\$128,042,596.51

(h) Sales made by Joseph Gregory Blind Trust

(i) Sales made by Kingsway LLC (a limited liability company, the primary members of which are Joseph Gregory, his spouse and his son)

(j) Sales made by Kingsway LLC Blind Trust

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
Kyle Macione	12/15/1999	2,472	\$48.38	\$119,595.36
Kyle Macione	11/28/2000	4,900	\$49.75	\$243,775.00
Kyle Macione	11/28/2000	100	\$49.81	\$4,981.25
Kyle Macione	12/11/2000	5,000	\$54.31	\$271,562.50
TOTAL		12,472		\$639,914.11

DEFENDANT	TRANSACTION DATE	SHARES SOLD	PRICE	PROCEEDS FROM SALE
Brian Shrader	12/15/1999	40,000(m)	\$52.00	\$2,080,000.00

(m) Sales by C.B.B LLC

172. The defendants' stock sales during the Class Period were unusual and suspicious in timing and amount because:

a. Prior to the Class Period, for the period between the Company's IPO on June 28, 1998 through March 25, 1999, John Gregory did not sell any shares of King common stock. During the Class Period, however, John Gregory sold over 5 million shares of King common stock for proceeds totaling approximately \$196,871,800.41. John Gregory sold over 4% of his holdings between the period June 21, 2000 and July 19, 2001, and over 25% of his holdings after July 19, 2001. Since the end of the Class Period, from March 10, 2003 to the present, John Gregory has not sold any shares of King common stock.

b. Prior to the Class Period, for the period between the Company's IPO on June 28, 1998 through March 25, 1999, Jefferson Gregory did not sell any shares of King common stock. During the Class Period, however, Jefferson Gregory sold 516,876 shares of King common stock, for proceeds totaling approximately \$21,545,746.65. Jefferson Gregory sold over 13% of his holdings between the period June 21, 2000 and July 19, 2001, and over 10% of his holdings after July 19, 2001. Since the end of the Class Period, from March 10,

2003 to the present, Jefferson Gregory has not sold any shares of King common stock.

c. Prior to the Class Period, for the period between the Company's IPO on June 28, 1998 through March 25, 1999, Joseph Gregory did not sell any shares of King common stock. During the Class Period, however, Joseph Gregory sold 3,380,001 shares, for proceeds totaling approximately \$128,042,596.51. Joseph Gregory sold over 14% of his holdings between the period June 21, 2000 and July 19, 2001, and over 42% of his holdings after July 19, 2001. Since the end of the Class Period, from March 10, 2003 to the present, Joseph Gregory has not sold any shares of King common stock.

d. On December 15, 1999, John Gregory sold 215,000 shares of King common stock for proceeds totaling in excess of \$10.5 million. On the same date, Jefferson Gregory sold 50,000 shares of King common stock for proceeds totaling \$2.5 million and Joseph Gregory sold 80,000 shares of King common stock for proceeds totaling in excess of \$4.1 million.

173. In sum, these three insiders profited more than \$17 million on their December 15, 1999 sales alone. These sales were unusual because they came on the heels of a 70% increase in the stock price in just 36 days. On November 9, 1999, King stock closed at 35.50. On December 15, 1999, John, Jefferson and Joseph Gregory sold at prices ranging from \$49.91 to \$51.64, more than 70% above the trading price just 36 days prior. Moreover, John, Jefferson and Joseph Gregory each possessed the material

non-public information regarding the related party transactions detailed herein at ¶¶147-163, and the FDA's inspections and letters noting violations of current good manufacturing practices, as detailed herein at ¶¶158-160.

174. The timing and duration of certain blind trusts created by Joseph, John and Jefferson Gregory also supports an inference of scienter. On December 6, 2000, when the price of King stock was near its class period high, these three brothers established blind trusts ostensibly for the purpose of gradually liquidating a portion of their holdings of King common stock. Specifically, John Gregory and S.J. LLC transferred 3 million shares and 1.5 million share of King common stock respectively – representing approximately 28.2% of the shares controlled by John Gregory – into two separate blind trusts with instructions that the trustee sell approximately 250,000 shares per quarter and 125,000 shares per quarter respectively over a three-year period beginning April 30, 2001. Joseph Gregory and Kingsway, LLC transferred 1.2 million shares and 600,000 shares of King common stock respectively – representing approximately 28.9% of the shares controlled by Joseph Gregory – into two separate blind trusts with instructions that the trustee sell approximately 100,000 shares per quarter and 50,000 shares per quarter, respectively, over a three-year period beginning April 30, 2001. Jefferson Gregory transferred 600,000 shares of King common stock – representing approximately 28.% of the shares controlled by Jefferson Gregory – into a blind trust with instructions that the trustee sell approximately 50,000 shares per quarter over a three-year period beginning

February 1, 2001. The selling shareholders held the right to revoke their respective blind trusts at anytime.

175. John, Joseph and Jefferson Gregory established their trusts in December 2000, at a time when King common stock was trading at upwards of \$50.00 per share. Each of the blind trusts sold shares quarterly beginning in the first quarter of 2001 and continuing into the second quarter of 2002 at prices ranging from as high as \$43.98 per share on February 14, 2001 to as low as \$34.56 per share on April 2, 2002. Throughout the 15 month period from February 2001 to April 2002, the blind trusts sold in excess of 2.2 million shares at artificially inflated prices for total proceeds in excess of \$91 million.

176. On May 17, 2002, when the price of King common stock had closed below \$30 per share for two consecutive weeks for the first time since the creation of the blind trusts in December 2000, John Gregory, Joseph Gregory and Jefferson Gregory announced the termination of their trusts. In fact, the blind trusts sold no additional shares after April 2, 2002. Two months later, on July 23, 2002, King's stock was trading as low as \$17.03.

177. In sum, John, Joseph and Jefferson Gregory created these so-called "blind trusts" to dispose of King common stock while its prices were near all time highs and then quickly terminated the trusts as the stock price began to fall. The creation, and subsequent premature termination, of these blind trusts evidences the motivation of these insiders – to reap as much financial gain as possible from King's artificially inflated stock

price. These insiders were successful, realizing over \$345 million in stock sales combined during the Class Period.

178. Notwithstanding their duty to refrain from trading King common stock under these circumstances, or to disclose the insider information prior to selling such stock, certain Officer Defendants sold, prior to disclosure of the material adverse facts described above, shares of King common stock at prices that had been artificially inflated by defendants' materially false representations.

B. King Admits That Its Results Were Misstated

179. The fact that the Company has now revised its financial results for fiscal year 2002 and admitted that it underaccrued amounts owed to Medicaid from 1998 through 2002, constitutes strong circumstantial evidence of defendants' scienter. In addition, as detailed herein at ¶¶92-94 the Company has admitted to a "significant deficiency" in its internal controls relating to the Medicaid reimbursement program. Defendants' knowledge or recklessness is further supported by the Company's further admission that it had began implementing a new Medicaid information technology compliance program in November 2000, but it did not become operational until sometime after April 15, 2003 – after the Class Period. Finally, as evidence of King and the Officer Defendants' scienter, the former King executive specifically hired to re-vamp the Medicaid reimbursement program for the Company, said that the Company did not pay Medicaid because it affects the bottom line.

C. King And The Officer Defendants Used The Inflated Stock Price To Acquire Pharmaceutical Products

180. The inflation in the price of King common stock provided the means for the Company to pursue strategic acquisitions of complementary businesses, while using its stock as currency for these purchases or using secondary offerings to raise cash. Expanding its branded pharmaceutical line was the business model and life-blood of King. Defendants knew that without these acquisitions, the Company could not survive.

181. On February 25, 2000, King acquired Medco Research, Inc. in an all stock transaction valued at approximately \$366 million. King exchanged approximately 14.4 million shares of King common stock for all of the outstanding shares of Medco. The “exchange ratio” was calculated using the “Average Closing Price” of King’s common stock during a 20 day period ending just prior to the Medco stockholder meeting to approve the merger. Medco is now a wholly-owned subsidiary and was renamed King Pharmaceuticals Research and Development, Inc.

182. Thereafter, on April 25, 2000, the Company raised over \$165 million in a secondary public offering, as detailed herein at ¶¶201-207. The majority of the proceeds was used to pay down debt on the Company’s revolving line of credit.

183. On June 23, 2000 King announced a co-promotion agreement with American Home Products (“AHP”) for Altace. As part of the co-promotion deal, AHP acquired \$75 million of King’s common stock for cash and paid King \$25 million in cash

upon execution of the co-promotion agreement. Another portion of the co-promotion transaction included King's purchase of five American Home Products pharmaceuticals.

184. On August 31, 2000, King acquired Jones Pharma in an all stock transaction valued at approximately \$2.4 billion. Using its stock as currency, King exchanged 98.4 million shares of King common stock for all outstanding shares of Jones Pharma. Each share of Jones Pharma was exchanged for 1.125 shares of King common stock.

185. On August 8, 2001, King acquired rights to three branded pharmaceutical products and a license to a fourth product from Bristol-Meyers Squibb for \$285 million, using a combination of cash on hand and the Company's existing revolving line of credit.

186. Having expended significant cash and reached deeper into its revolving credit line to consummate the above transactions, King needed more cash to continue its acquisition strategy. King and the Officer Defendants held a secondary offering to sell its common stock at inflated prices and raise cash. As detailed above at ¶76, King grossed over \$500 million in a secondary offering of its common stock on November 1, 2001.

187. Armed with the proceeds from the November Offering, King acquired four additional branded pharmaceuticals for cash. On May 29, 2002, King paid \$108 million, plus \$3.3 million of expenses to acquire all rights to Ortho-Orefest(R), a branded pharmaceutical product, from Ortho-McNeil Pharmaceuticals, Inc., a Johnson & Johnson subsidiary. In February, King paid an additional \$7 million upon receipt of the FDA's approval to rename the product "Prefest." Then, on December 30, 2002, King paid

\$197.5 million cash plus \$4.3 million of expenses to acquire the rights to three branded pharmaceutical products from Aventis.

188. On January 8, 2003, King acquired Meridian Medical Technologies, Inc. for \$246.8 million cash paid to Meridian shareholders in exchange for their shares of Meridian common stock. Meridian pioneered the development, and was the leading manufacturer, of auto-injectors for the self-administration of injectable drugs.

189. On June 12, 2003, King acquired the primary care business of Elan Corporation, plc and some of its subsidiaries in the United States and Puerto Rico, including the rights to two branded pharmaceutical products. King paid approximately \$750 million at closing.

190. The scheme was successful. Absent the artificially inflated price of King common stock as detailed herein at ¶¶138-189, the Company's ability to implement its business strategy would have been severely hampered. The artificially inflated stock price, and the cash proceeds raised in the November Offering, provided the Company with the means necessary to successfully implement its acquisition-based business strategy, expanded King's pipeline by over 30 products, and filled the pockets of its highest ranking insiders with over \$345 million.

D. King Is Motivated To Meet Earnings Estimates

191. During the Class Period, King was motivated to engage in the various schemes identified above in order to ensure that it consistently met consensus analyst estimates. During the Class Period, King maintained a consistent streak of meeting or

beating analysts estimates each quarter, which kept the Company in favor with the market and analysts. Additionally, during the Class Period, King and the Officer Defendants made numerous statements attributing King's growth to sales of Altace or other factors. But they failed to disclose that the Company's growth was in fact also fueled by King and the Officer Defendants' failure to properly reimburse Medicaid and other governmental pricing programs and by engaging in manufactured transactions with the Benevolent Fund.

E. King And The Officer Defendants Violated GAAP

192. Moreover, the intentional violations of GAAP are further evidence of scienter. Specifically, King and the Officer Defendants: (i) underaccrued amounts owed to Medicaid and the other governmental pricing programs; (ii) manufactured related party transactions with the Benevolent Fund; and (iii) failed to disclose King's sales to the Benevolent Fund, all in direct violation of GAAP as detailed above in ¶¶89-98.

XII. FALSE AND MISLEADING STATEMENTS UNDER § 10(b)

193. Each of the false and misleading statements in the Jones Prospectus and November Prospectus set forth in ¶¶55-63, 77-87 above, is specifically incorporated herein. Additionally, the statements set forth below were also materially false and misleading as follows:

Year-End 1998

194. On February 16, 1999, the first day of the Class Period, the Company issued a press release announcing its financial results for the period ended December 31,

1998. Specifically, King reported revenues totaling approximately \$163.5 million, net sales of approximately \$158.1 million, operating income of approximately \$55.4 million and net income of approximately \$20.9 million. King also reported diluted earnings per share of \$0.69.

195. On or about March 31, 1999, King filed its 1998 10-K, which contained the same false and misleading financial results statements discussed above in ¶58. Additionally, the 1998 10-K represented that King adhered to the following revenue recognition policy: “Sales are reported net of an estimate for returns and allowances and an estimate for chargebacks. Chargebacks and returns and allowances are included in sales when goods are shipped to the customer.” The Company also represented that its results were presented fairly and in accordance with GAAP. John, Jefferson, Joseph, and James Gregory, Richards and Shrader approved of the statements contained in the 1998 10-K and John, Jefferson and Joseph Gregory and Shrader signed it.

196. King’s statements made in the February 16 press release and the 1998 10-K were false and misleading when made because, as later admitted in the Company’s 2002 10-K, King and the Officer Defendants overcharged Medicaid and failed to comply with applicable Medicaid regulations described in ¶¶164-169. As a result, King overstated its fiscal 1998 revenues, net sales, and operating income by \$2.46 million. Similarly, King overstated its net income, as originally reported, by \$1.518 million, or over 7%, and inflated its earnings per share, as originally reported, by \$0.06. Thus, the

Company's 1998 10-K did not "present fairly" its financial results and were in violation of GAAP as discussed above in ¶¶89-98.

Fourth Quarter and Year End 1999

197. On February 16, 2000, King issued a press release announcing its results for the quarter and year ended December 31, 1999, which John Gregory deemed a "solid" fourth quarter. In the press release, King reported revenues for the fourth quarter of approximately \$107.4 million and net income of approximately \$14 million and diluted earnings per share of \$0.29. King specifically noted that Fluogen gross sales increased by 52%, to \$12.9 million in the fourth quarter of 1999, as compared to the fourth quarter of 1998.

198. For fiscal year 1999, King stated its revenues totaled \$348.3 million, net sales totaled \$348.3 million, operating income totaled approximately \$128.2 million and net income totaled approximately \$44.9 million. For the year, King reported diluted earnings per share of \$0.93.

199. On or about March 30, 2000, King filed its 1999 10-K, which included the same financial results announced in the Company's February 16, 2000 press release, and detailed herein at ¶¶197-198. The Company also represented that its results were presented fairly and in accordance with GAAP. John, Jefferson, Joseph, and James Gregory, Richards and Shrader approved of the statements contained in the 1999 10-K and John and Joseph Gregory and Shrader signed it.

200. The Company's financial results for the fourth quarter and fiscal year 1999, as contained in King's press release and 1999 10-K, were materially false and misleading when made because King overcharged Medicaid and failed to comply with applicable Medicaid regulations as described in ¶¶164-169 above and managed its earnings in the fourth quarter of 1999 by manufacturing, and then failing to disclose, two related party sales in 1999 with the Benevolent Fund as described in ¶¶147-163 above. As a result, in underaccruing for Medicaid, King overstated its results in fiscal 1999 revenues by approximately \$6.482 million, net sales by approximately \$6.482 million and operating income by \$6.368 million and net income by \$3.929 million. The Company's error increased diluted earnings per share, as originally reported, by \$0.08. Additionally, according to the Company's 2002 10-K, the Fluogen sales to the Benevolent Fund contributed \$601,124 to King's 1999 net income, or 4.3% of King's fourth quarter 1999 and 1.3% of its full-year 1999 net income on a pre-pooling basis. On a per share basis, the two Fluogen(R) sales represented \$0.01, or 4.1% of the Company's fourth quarter 1999 and 1.3% of King's full-year 1999 diluted income per common share on a pre-pooling basis. Thus, the Company's 1999 10-K did not "present fairly" the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

The April 2000 Offering

201. On April 25, 2000, King completed a public offering of 4 million shares of its common stock at \$41.38 per share for proceeds of approximately \$165.5 million (the "April Offering") pursuant to a Form S-3 Shelf Registration Statement filed with the SEC

on January 21, 2000 (“January Registration Statement”) and a Prospectus and Prospectus Supplement filed with the SEC on April 19, 2000 (“April Prospectus Supplement”) (collectively, the “April Prospectus”).

202. In the April Prospectus Supplement, under Note 2 of its “Summary of Significant Accounting Policies,” King represented that it adhered to the following revenue recognition policy: “Sales are reported net of an estimate for returns and allowances, rebates and chargebacks when goods are shipped to the customer.”

203. The January Registration Statement and the April Prospectus Supplement warned that: “FAILURE TO COMPLY WITH GOVERNMENT REGULATIONS COULD AFFECT OUR ABILITY TO OPERATE OUR BUSINESS.”

204. Page F-4 of the April Prospectus Supplement contains King’s audited financial results for fiscal 1998 and 1999 (after giving effect to King’s merger with Medco Research Inc. (“Medco”) on February 25 2000). Specifically, for fiscal 1998, after including Medco’s results, King reported total revenues of approximately \$191 million, net sales of \$158.1 million, net income of approximately \$37.2 million and diluted earnings per share of \$0.71. On the same page, for fiscal 1999, after including Medco’s results, King reported total revenues of approximately \$379.9 million, net sales of approximately \$348.2 million, net income of approximately \$51 million and diluted earnings per share of \$0.91.

205. On page 6 of the April Prospectus Supplement, King stated that “Fluogen(R)'s gross sales totaled \$32.0 million, while net sales equaled \$28.7 million, for

the year ended December 31, 1999. Gross profit for Fluogen(R) equaled \$6.9 million for the same period.” Moreover, King represented that “Altace(R), Lorabid(R), Fluogen(R), and the Cortisporin(R) product lines, collectively accounted for approximately 58.6% of net sales for 1999.”

The April Prospectus incorporated by reference:

- King’s annual report filed with the SEC on March 26, 1999 on the Form 10-K for the year-end December 31, 1998 (the “1998 10-K”); and
- King’s annual report filed with the SEC on March 30, 2000 for the year-end December 31, 1999 (the “1999 10-K”).

206. The 1998 10-K and the 1999 10-K, as incorporated into the April Prospectus, included the same false and misleading financial results, as detailed herein at ¶¶194-200.

207. The Company’s financial results repeated and incorporated by reference into the April Prospectus were materially false and misleading when made because King overcharged Medicaid and failed to comply with applicable Medicaid regulations as described in ¶¶164-169 above and managed its earnings in the fourth quarter of 1999 by manipulating, and then failing to disclose, two related party sales in 1999 with the Benevolent Fund as described in ¶¶147-163 above. Further, the Company’s boilerplate risk factor was false and misleading because King failed to disclose that it was at the time not in compliance with applicable Medicaid regulations. Additionally, King failed to disclose that it was violating its own revenue recognition policy in failing to properly

account for net sales to Medicaid and other government pricing programs. As a result, King overstated its results for fiscal 1998 and 1999 as described in ¶¶196, 200.

Year End 2000

208. On February 20, 2001, King issued a press release announcing its results for the fourth quarter and year ended December 31, 2000. In the press release, King reported that for fiscal year 2000, the Company's revenues totaled approximately \$620.2 million and net income of approximately \$64.5 million. King further reported diluted earnings per share for fiscal 2000 of \$0.39.

209. On or about April 2, 2000, King filed its 2000 10-K, which contained the false and misleading statements discussed above in ¶208. In addition, King reported net sales of approximately \$578.8 million and operating income of approximately \$213.5 million. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the 2000 10-K and John, Jefferson and Joseph Gregory and Lattanzi signed it.

210. On or about September 20, 2001, King filed its 2000 10-K/A, which contained the false and misleading statements discussed above in ¶¶208-209, except that the 2000 10-K/A reported operating income of \$184.7 million. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the 2000 10-K/A and John Gregory and Lattanzi signed it.

211. The statements contained in ¶¶208-210 were materially false and misleading when made because the Company failed to disclose that it had overcharged

Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. As a result, King overstated its revenues and net sales by \$5.873 million and its operating income by \$5.744 million. Additionally, King overstated its net income by \$3.544 million, or over 5%. King's failure to properly accrue for amounts owed to Medicaid also inflated its earnings per share for fiscal 2000 by \$0.02. Thus, the Company's 2000 10-K and 2000 10-K/A did not "present fairly" the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above. Further, the Company's boilerplate risk factor was false and misleading because King failed to disclose that it was at the time not in compliance with applicable Medicaid regulations. Additionally, King failed to disclose that it was violating its own revenue recognition policy in failing to properly account for net sales to Medicaid and other government pricing programs.

First Quarter 2001

212. On April 30, 2001, the Company announced its results for the period ended March 31, 2001. In the press release, King reported that revenues for the quarter totaled approximately \$181.3 million.

213. On the same day, King hosted a conference call to discuss the Company's first quarter 2001 results. John, Joseph, and Jefferson Gregory, Macione and Lattanzi all participated on the call. During the call, Lattanzi reiterated the same financial results reported in the Company's press release.

214. On or about May 14, 2001, King filed its First Quarter 2001 10-Q. The First Quarter 2001 10-Q contained the same materially false and misleading statements discussed in the Company's first quarter 2001 earnings release and King's April 30, 2001 conference call. In addition, the First Quarter 2001 10-Q contained the materially false and misleading statements discussed in ¶¶212-213 above. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the First Quarter 2001 10-Q and John Gregory and Lattanzi signed it.

215. King's reported revenues for the first quarter 2001, however, were materially false and misleading when made because King failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. Consequently, King overstated its revenues by at least \$967,000 or .5%. Thus, the Company's First Quarter 2001 10-Q was not a "fair presentation" of the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

Second Quarter 2001

216. On July 23, 2001, King issued a press release announcing its results for the period ending June 30, 2001. In the press release, King reported revenues of \$206.5 million and diluted earnings per share totaled \$0.25. John Gregory praised the Company's results stating: "We are very pleased to report King's strong earnings growth in excess of our projections during the second quarter based on continued growth of a broad array of our branded pharmaceuticals, in particular Altace"

217. On July 23, 2001, King hosted a conference call to discuss its results for the second quarter of 2001. Joseph and Jefferson Gregory, Macione, and Lattanzi participated in the call. During the call, Joseph Gregory reiterated the Company's diluted earning per share results as first reported in the Company's second quarter 2001 press release. Similarly, Lattanzi reported the same revenue results as stated in the Company's press release.

218. On or about August 14, 2001, King filed its Second Quarter 2001 10-Q. The Second Quarter 2001 10-Q contained the same materially false and misleading statements discussed in the Company's second quarter 2001 earnings release and King's July 23, 2001 conference call. In addition, the Second Quarter 2001 10-Q contained the materially false and misleading statements discussed in ¶¶216-217 above. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the Second Quarter 2001 10-Q and John Gregory and Lattanzi signed it.

219. The statements concerning the Company's results for the second quarter of 2001 were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. As the Company later admitted in its 2002 10-K, it overstated its revenues for the second quarter 2001 by \$2.493 million and its earnings per share by \$0.01. Thus, the Company's Second Quarter 2001 10-Q was not a "fair presentation" of the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

Third Quarter 2001 Results

220. On October 29, 2001, King issued a press release announcing its results for the period ending September 30, 2001. In the press release, King reported revenues of approximately \$230.1 million and diluted earnings per share of \$0.27. Jefferson Gregory touted the Company's results for the third quarter of 2001, stating: "King is pleased to report continued strong revenue and earnings growth in excess of our projections during the third quarter. This sustained growth is attributable to a broad array of our branded pharmaceuticals products, in particular Altace"

221. On the same day, King held a conference call to tout its second quarter 2002 results. John, Joseph, and Jefferson Gregory and Lattanzi participated on the call. During the call, defendants reiterated the same financial results as reported in the Company's third quarter 2001 press release.

222. On or about November 14, 2001, King filed with the SEC its quarterly report for the period ended September 30, 2001 (the "Third Quarter 2001 10-Q"). The Third Quarter 2001 10-Q contained the same materially false and misleading statements discussed in the Company's third quarter 2001 earnings release and King's October 29, 2001 conference call. The Third Quarter 2001 10-Q contained additional materially false and misleading statements. Specifically, the Company represented that "[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included." Moreover, King included its boilerplate risk factor as contained in ¶80.

223. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the Third Quarter 2001 10-Q and John Gregory and Lattanzi signed it.

224. The statements concerning the Company's results for the third quarter 2001 were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. As a result, King overstated its revenues and net sales for the quarter by \$1.756 million and inflated its diluted earnings per share by \$0.01. Thus, the Company's Third Quarter 2001 10-Q was not a "fair presentation" of the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

225. Significantly, in the third quarter of 2001, King exceeded analysts' consensus earnings expectations by a \$0.01. Without this additional \$0.01 from failing to properly reimburse Medicaid, King would have only met expectations. Further, it would have marked the first time King failed to surpass analyst consensus estimates in ten quarters. Thus, the Company's failure to properly record revenues relating to Medicaid was critical to achieving earnings estimates and remaining in favor with analysts.

Fourth Quarter and Year End 2001 Results

226. On February 19, 2002, King issued a press release announcing its results for the fourth quarter and year end 2001. In the press release, King reported net income of \$217.9 million and diluted earnings per share of \$0.93 for the year. King also reported

approximately \$254.3 million in sales and earnings per share of \$0.23 for the fourth quarter.

227. In the press release, Jefferson Gregory again praised King's results and its remarkable ability to meet or exceed analysts' earnings estimates. Specifically, Gregory stated: "King continued its impressive track record of sustained earnings growth, along with numerous milestone accomplishments, during the fourth quarter and year ending December 2001."

228. On the same day, King hosted a conference call to discuss its results for the fourth quarter and year ended 2001. Jefferson Gregory, Macione, James Green, Director of Corporate Affairs, and Lattanzi participated on the call. During the call, defendants repeated the same financial results as first reported in the Company's fourth quarter and fiscal year 2001 press release.

229. On or about April 1, 2002, King filed with the SEC its annual report on the Form 10-K for the period ended December 31, 2001 (the "2001 10-K"), which contained the same materially false and misleading statements discussed in the Company's fourth quarter and 2001 year end earnings release and King's February 19, 2002 conference call. The 2001 10-K also reiterated the Company's revenue recognition policy as: "[p]roduct sales are reported net of an estimate for returns and allowances, rebates and chargebacks." Moreover, King included its boilerplate risk factor as contained in ¶80. In the 2001 10-K, King also reported net sales for fiscal 2001 of \$825.4 million and operating income of approximately \$366.3 million.

230. In its 2001 10-K, King also represents that it had \$33,744,000 in accrued rebate expense.

231. In addition, under the related party note to financial results, King referenced the Benevolent Fund, but failed to disclose the related party sales to the Benevolent Fund, as detailed herein at ¶¶147-163:

King Pharmaceuticals Benevolent Fund, Inc. is a nonprofit corporation organized under the laws of the Commonwealth of Virginia and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The Board of Directors of the Benevolent Fund includes John M. Gregory, Joseph R. Gregory and Jefferson J. Gregory who are also executive officers of King. Messrs. John M., Joseph R. and Jefferson J. Gregory are also directors of King. At December 31, 2001, the Benevolent Fund was not indebted to King. The Benevolent Fund is independent of King, maintains its own accounting records and its activities are not directly related to the business of King. We donated to the Benevolent Fund inventory with a cost of approximately \$4.1 million in 2001 and \$3.3 million in 2000.

232. Additionally, King represented that it present fairly its financial results for 2001. John, Jefferson and Joseph Gregory and Lattanzi approved of the statements contained in the 2001 10-K and Jefferson, John, and Joseph Gregory and Lattanzi signed it.

233. As stated in the 2002 10-K, King's financial results and revenue recognition policy were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. Consequently, as later admitted in the 2002 10-K, for the fourth

quarter of 2001, King overstated its revenue and net sales by approximately \$2.1 million and inflated its earnings per share by \$0.01.

234. Similarly, for the full year 2001, King inflated its net sales by approximately \$7.29 million, its operating income by approximately \$7.19 million, net income by approximately \$4.4 million and its earnings per share by \$0.02. King's statement as to how much it accrued for rebates was also materially misleading because, as disclosed in the Company's 2002 10-K, King underaccrued for rebates to Medicaid by \$7.3 million in 2001. As such, the amount accrued for rebates on King's balance sheet was materially understated by over 22% in 2001. Thus, the Company's 2001 10-K did not "present fairly" the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above. Further, the Company's boilerplate risk factor was false and misleading because King failed to disclose that it was at the time not in compliance with applicable Medicaid regulations. Additionally, King failed to disclose that it was violating its own revenue recognition policy in failing to properly account for net sales to Medicaid and other government pricing programs.

235. Moreover, the Company's selective representations of transactions involving the Benevolent Fund were materially false and misleading for the reasons stated herein at ¶¶147-163.

First Quarter 2002

236. On April 29, 2002, King issued a press release announcing its financial results for the first quarter of 2002. In its press release, King reported revenues of \$258.1

million and diluted earnings per share of \$0.29. Once again, Jefferson Gregory expressed pride in King's financial results stating: "[w]e are very pleased with King's first quarter results and sustained earnings and revenue growth."

237. On the same day, King hosted a conference call to discuss its results for the first quarter of 2002. Jefferson Gregory, Macione, Lattanzi and James Green participated on the call. During the call, Lattanzi reiterated the financial results first reported in King's April 29, 2002.

238. On or about May 15, 2002, King filed with the SEC its quarterly report for the period ended March 31, 2002 (the "First Quarter 2002 10-Q"). The First Quarter 2002 10-Q contained the same materially false and misleading statements discussed in the Company's first quarter 2002 earnings release and King's April 29, 2002 conference call.

239. The First Quarter 2002 10-Q again represented that: "[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included." Moreover, King included its usual boilerplate risk factor as detailed in ¶80. John, Jefferson and Joseph Gregory, Lattanzi and Macione approved of the statements contained in the First Quarter 2002 10-Q and Jefferson Gregory and Lattanzi signed it.

240. The Company's statements in ¶¶236-239 above, were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable

Medicaid regulations as described above in ¶¶164-169. As a result, and as later revealed in its 2002 10-K, King overstated its first quarter 2002 results by \$5.495 million and inflated its earnings per share by \$0.02. Thus, the Company's First Quarter 2002 10-Q was not a "fair presentation" of the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

241. In the first quarter 2002, King exceeded analyst consensus earnings expectations by \$0.01. Without the inflated \$0.02 from failing to properly reimburse Medicaid, King would have *missed* consensus estimates by \$0.01. If King had missed earnings expectations for the quarter, it would have marked the first quarter King missed consensus earnings estimates in twelve quarters.

Second Quarter 2002

242. On July 29, 2002, King issued a press release announcing its financial results for the second quarter of 2002, again reporting "solid" revenue growth. Specifically, King reported revenues of \$282.5 million and diluted earnings per share of \$0.24. In commenting on the Company's results, Jefferson Gregory stated: "King continued the Company's record of solid revenue and earnings growth during the second quarter of 2002."

243. On the same day, King hosted a conference call to discuss its results for the second quarter of 2002. Jefferson Gregory, Macione, Lattanzi and James Green participated on the call. During the call, Lattanzi reiterated the same financial results for the second quarter 2002.

244. On or about August 14, 2002, King filed with the SEC its quarterly report for the period ended June 30, 2002 (the “Second Quarter 2002 10-Q”). The Second Quarter 2002 10-Q contained the same materially false and misleading statements discussed in the Company’s second quarter 2002 earnings release and King’s July 29, 2002 conference call.

245. The Second Quarter 2002 10-Q represented that: “[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included.” Moreover, King reiterated its boilerplate risk factor as detailed in ¶80. John, Jefferson and Joseph Gregory, Lattanzi and Macione approved of the statements contained in the Second Quarter 2002 10-Q and Jefferson Gregory and Lattanzi signed it.

246. On August 14, 2002, in conjunction with this filing, Jefferson Gregory and Lattanzi each signed and filed a separate certification with the SEC, as required by the Section 906 of the Sarbanes-Oxley Act of 2002, in which each certified that the report complies with § 13(a) or 15(d) of the Exchange Act and that the information contained in the Second Quarter 2002 “fairly presents in all material respects, the financial condition and results of operations of the Company.”

247. The Company’s statements made in ¶¶242-246 above were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. As a result, and

as later admitted in its 2002 10-K, King inflated its revenues for the quarter by \$2.831 million and its earnings per share by \$0.01. Thus, the Company's Second Quarter 2002 10-Q was not a "fair presentation" of the Company's financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

Third Quarter 2002

248. On October 28, 2002, King issued a press release announcing its results for the third quarter of fiscal 2002. For the quarter, King reported revenues of \$315.7 million and diluted earnings per share of \$0.35. In praising the Company's results, Jefferson Gregory stated: "[w]e are very pleased with King's third quarter results and sustained solid revenue growth and earnings growth at the high-end of our previously announced projected ranges."

249. On the same day, King hosted a conference call to discuss its results for the third quarter of 2002. Jefferson Gregory, Macione, Lattanzi and James Green participated on the call. During the call, Lattanzi reiterated the identical financial results for the third quarter of 2002.

250. On or about November 14, 2002, King filed with the SEC its quarterly report for the period ended September 30, 2002 (the "Third Quarter 2002 10-Q"). The Third Quarter 2002 10-Q contained the same materially false and misleading statements discussed in the Company's third quarter 2002 earnings release and King's October 28, 2002 conference call.

251. The Third Quarter 2002 10-Q also contained the additional materially false and misleading statement contained in its earlier quarter reports for fiscal 2001 and 2002 that: “[i]n the opinion of management, all adjustments (consisting of items of a normal recurring nature) considered necessary for a fair presentation have been included.” Moreover, King reiterated its boilerplate risk factor as detailed in ¶80. John, Jefferson and Joseph Gregory, Lattanzi and Macione approved of the statements contained in the Third Quarter 2002 10-Q and Jefferson Gregory and Lattanzi signed it.

252. On November 14, 2002, in conjunction with this filing, Jefferson Gregory and Lattanzi each signed and filed a separate certification with the SEC, as required by the Sarbanes-Oxley Act of 2002, in which each certified that the report complies with § 13(a) or 15(d) of the Exchange Act and that the information contained in the Third Quarter 2002 “fairly presents in all material respects, the financial condition and results of operations of the Company.” Moreover, Jefferson Gregory and Lattanzi both signed and filed a certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. In the certification, both certified that the Third Quarter 2002 10-Q “does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report”

253. Moreover, in their certifications filed pursuant to Section 302 of the Sarbanes-Oxley Act, both Lattanzi and Jefferson Gregory acknowledged their responsibility for establishing and maintaining disclosure controls and procedures and

that they: (a) designed such disclosure controls and procedures to ensure that material information relating to [King], including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared; (b) evaluated the effectiveness of [King's] disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date") ; and (c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date[.]”

254. Further, Lattanzi and Jefferson Gregory certified that they have disclosed to King's audit committee “all significant deficiencies in the design or operation of internal controls which could adversely affect [King's] ability to record, process and summarize and report financial data and have identified for [King's] auditors any material weaknesses in internal controls” and “any fraud, whether or not material, that involves management or other employees who have a significant role in [King's] internal controls.”

255. The Company's statements in ¶¶250-254 above were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. Consequently, King inflated its revenues by \$2.07 million and its earnings per share by \$0.01. Thus, the Company's

Third Quarter 2002 10-Q was not a “fair presentation” of the Company’s financial results and were in violation of GAAP as discussed in ¶¶89-98 above.

256. In the third quarter of 2002, King exceeded earnings expectations by a \$0.01. Without the inflated \$0.01 earnings per share from failing to properly account for Medicaid, King would not have exceeded consensus estimates.

Fourth Quarter and Year End 2002 Earnings Release and Conference Call

257. On February 18, 2003, King issued a press release announcing its results for the fourth quarter and year end December 31, 2002. In the press release, King reported revenues of \$323.2 million for the quarter and net revenues of \$1.18 billion, for the fiscal year. Net income totaled \$41.2 million or \$0.17 per diluted share for the quarter and net income for the year totaled \$255.1 million or \$1.04 per diluted share.

258. On the same day, King hosted a conference call to discuss its results for the fourth quarter and fiscal year 2002. Jefferson Gregory, Macione, Lattanzi and James Green participated on the call. During the call, Lattanzi repeated the Company’s financial results as first reported in King’s press release for the fourth quarter and fiscal year 2002.

259. The statements made in ¶¶257-258 above were materially false and misleading when made because the Company failed to disclose that it had overcharged Medicaid and other governmental pricing programs and failed to comply with applicable Medicaid regulations as described above in ¶¶164-169. Therefore, according to the Company’s 2002 10-K, the Company recorded a charge in the fourth quarter of 2002,

reflecting \$12 million in changes in accounting estimates under GAAP made in 2002. An additional \$12.4 million reflects corrections of errors related to 2002 and recorded in the fourth quarter of 2002. Moreover, the Company's revenues included an undisclosed related party sale to the Benevolent Fund only four days before the end of the fiscal year 2002, as described at ¶¶147-163, in the amount of approximately \$4.6 million.

XIII. THE SCHEME UNRAVELS

260. On March 11, 2003, prior to the market opening, King issued a press release informing investors that it received a subpoena from the SEC and that the SEC was "conducting an investigation of the Company." The Company's press release revealed the scope of the subpoena:

The requested documents seem to focus on the years 1999 and 2000, and include all documents related to sales of King's products to Vitarx and Prison Health Services during 1999 and 2000, King's "best price" lists, all documents related to the pricing of King's pharmaceutical products to any governmental Medicaid agency during 1999, the accrual and payment of rebates on Altace (R) (ramipril) from 2000 to the present, and other general requests.

261. During a conference call on the same day, Macione revealed that the Company's auditors, PricewaterhouseCoopers, also received a subpoena from the SEC. During the same call, Jefferson Gregory admitted that the Company was aware of the SEC inquiry dating back to as early as November 2002, "I want to also make it clear that the company was aware of an informal inquiry being made by the SEC previously along the lines of this issue. They had made that known to us back in November." Neither

King nor the Officer Defendants informed the public of the SEC's inquiry back in November.

262. When the market opened on March 11, 2003, shares of King's common stock immediately fell 23%, from \$15.90 per share on March 10, 2003 to \$12.17 per share on March 11, 2003, on volume of 19,531,600 – more than 24 times the prior day's volume.

263. On March 31, 2003, the Company announced that it had begun an internal review and that, "management has determined that the Company's calculations related to Medicaid reimbursement have not technically followed the prescribed methodology pursuant to the applicable regulations. As part of this review, the Company is taking appropriate steps to assess whether it may have overpaid or underpaid Medicaid reimbursements."

264. As a result of the SEC's investigation, King contacted Medicaid, the Office of the Inspector General at the Department of Health and Human Services ("OIG"), and the Department of Justice ("DOJ"). The Company announced that it expected to engage in more detailed discussions to determine the "precise" amount of the underpayments. King stated that it expected to make the required payments in the third or fourth quarter of 2003.

265. Thereafter, on April 15, 2003, King filed the Company's unaudited financial results for fiscal year 2002 on Form 8-K with the SEC. On May 14, 2003, the

SEC served King with a second subpoena requiring the Company to produce additional documents pertaining to the Company's calculations relating to Medicaid rebates.

266. On July 29, 2003, King announced the completion of its Audit Committee's independent review and the Company's filing of its 2002 10-K and First Quarter 2003 Form 10-Q. As reported in the Company's 2002 10-K:

The audited consolidated financial statements contained in this annual report on Form 10-K, reflect three adjustments arising from the internal review or otherwise based on information that became available subsequent to the release of the unaudited consolidated financial statements, contained in the April 15 Form 8-K. These are (1) a \$46.5 million adjustment to our accrual for estimated amounts due under Medicaid and other governmental pricing programs, (2) an additional \$39.8 million charge relating to Lorabid®, consisting of a \$49.9 million accrual for Lorabid® purchase commitments in excess of expected demand and a \$10.0 million reduction (from \$76.8 million to \$66.8 million) in the previously announced Lorabid® intangible asset impairment charge, and (3) a deferral of \$4.7 million of revenue associated with a purchase of our products from a third-party wholesaler by King Benevolent Fund, Inc.

267. King made clear in its 2002 10-K, however, that the \$46.5 million is King's best estimate of the amount it owes to Medicaid, but relates "solely to the estimated underpayments and *excludes* any interest, fines, penalties or other amounts that might be owed in connection with the underpayments" (emphasis added.)

268. As reported in the 2002 10-K, the \$46.5 million charge included a charge for \$24.4 million in 2002 alone or approximately 13% of King's net income for the year ended December 31, 2002. According to the Company's admission, \$12.0 million reflected changes in accounting estimates under GAAP made in 2002. The remaining

half, or \$12.4 million, reflected corrections of “errors” related to 2002 and were recorded in the fourth quarter of 2002.

269. The remaining \$22.1 million of the \$46.5 million charge reflects a write down for errors that occurred during 1998 to 2001. Of this amount, approximately \$2.5 million relates to underpayments in 1998, \$6.5 million relates to underpayments in 1999, \$5.9 million relates to underpayments in 2000, and \$7.3 million relates to underpayments in 2001.

270. As disclosed in the Company’s 2002 10-K, the errors impacted the Company’s sales, income, and earnings per share.

271. King further disclosed that the SEC’s investigation of King is continuing and that other agencies such as Medicaid, the OIG, and DOJ might be investigating or commencing investigations that could impose civil or criminal sanctions, including fines, penalties and possible exclusion from federal health care programs (including Medicaid and Medicare.)

272. Not surprisingly, King admitted that it needed to “dedicate additional attention and resources to ensure compliance with all applicable reporting requirements for Medicaid rebates and other governmental pricing programs.” Moreover, the Company disclosed that the Audit Committee, during its internal review, noted the need “to have in place systems, processes and personnel that provide reasonable assurance that such errors are unlikely to recur in the future.” In fact, the Company admitted it did not have any system in place prior to November 2000 and that despite having started the

implementing of an information technology system in November 2000, it did not become operational until sometime after April 15, 2003, nor was it expected to achieve a “high level of automation” until mid-2004.

273. While King failed to provide further detail as to the drugs involved, part of the charge relates to King’s sale of Altace, the Company’s largest product in terms of sales and revenues. Specifically, because of the charge, King expected to recover royalties previously paid for Altace as well as money from its “co-promoter of Altace” (Wyeth). King conceded, however, that it was still discussing its position with this co-promoter. According to a technical director of Drug Rebate Operations at the Center for Medicare and Medicaid Services, Medicaid was a purchaser of Altace.

274. King also admitted to engaging in certain related party transactions with the Benevolent Fund described in ¶¶147-163 above. Specifically, the 2002 10-K “adjusts” the originally recognized revenue associated with the purchase of King’s products from a third-party wholesaler by the Benevolent Fund because a significant percentage of the product remained in the Benevolent Fund’s inventory. The 2002 10-K also admits to the November 1999 and December 1999 related party transactions. Specifically, the 2002 10-K admits that the Company entered into two separate transactions in November and December representing the Company’s largest sales of Fluogen for 1999 with the same third-party distributor (who Lead Plaintiffs’ counsel has identified as Castellon, Inc.). The Company has also admitted that these related party transactions accounted for \$601,124, or 4%, in net income for the fourth quarter 1999 and

added \$0.01 in diluted earnings per share for the fourth quarter, or 4.1%. In sum, as a result of these revelations, King has admitted to reporting materially false and misleading statements throughout the Class Period.

XIV. COUNTS VII - IX

COUNT VII

Against Defendants King, John, Jefferson, Joseph and James Gregory,
Richards, Shrader, Macione and Lattanzi For Violations
Of § 10(b) Of The Exchange Act And Rule
10b-5 Promulgated Thereunder On Behalf Of The Class

275. Lead Plaintiffs repeat and reallege each of the allegations set forth in ¶¶1-274, as if fully set forth herein. This Count is brought against defendants King, John, Jefferson, Joseph and James Gregory, Shrader, Macione and Lattanzi (the “Officer Defendants”), pursuant to § 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder by the SEC, on behalf of all purchasers of King common stock during the Class Period, including those persons or entities who purchased King common stock pursuant to or traceable to the April Offering.

276. Throughout the Class Period, King, and the defendants named in this Count, individually and in concert, directly and indirectly, by the use and means of instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the Company, including its true financial condition, as specified herein.

277. The defendants named in this Count employed devices, schemes, and artifices to defraud while in possession of material, adverse non-public information and

engaged in acts, practices, and a course of conduct that included the making of, or participation in the making of, untrue and/or misleading statements of material facts and/or omitting to state material facts necessary in order to make the statements made about the Company not misleading; and engaged in acts, practices and a course of business which operated as a fraud and deceit upon Lead Plaintiffs and Class members in an effort to maintain artificially inflated market prices for King common stock in violation of § 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

278. As a result of the Defendants' fraudulent conduct as alleged herein, the prices at which King common stock traded were artificially inflated throughout the class period. When Lead Plaintiffs and other members of the Class purchased their King common stock, the true value of the common stock was lower than the price actually paid by Lead Plaintiffs and other members of the Class. In ignorance of the materially false and misleading statements and omissions complained of herein, Lead Plaintiffs and other members of the Class relied on such statements and/or the integrity of the market, to their detriment, in purchasing their King common stock at artificially inflated prices during the Class Period.

279. The misrepresentations and omissions complained of herein directly or proximately caused, or were a substantial contributing cause of the loss sustained by Lead Plaintiffs and other members of the Class. Had Lead Plaintiffs and other members of the class known the truth, they would not have purchased King's common stock.

COUNT VIII

Against Defendants John, Jefferson, Joseph and James Gregory, Richards, Shrader And Lattanzi For Violations Of § 20(a) Of The Exchange Act

280. Lead Plaintiffs repeat and reallege each of the allegations set forth in the foregoing paragraphs, as if fully set forth herein. This Count is brought pursuant to § 20(a) of the Exchange Act on behalf of all purchasers of King common stock on the open market during the Class Period, including those persons or entities who purchased King common stock pursuant to the April Offering.

281. Each of the Officer Defendants was a controlling person of the Company within the meaning of § 20(a) of the Exchange Act during the Class Period. Specifically, throughout the Class Period, each of the Officer Defendants had the power and authority to cause the Company to engage in the wrongful conduct complained of herein by reason of the following:

(a) John Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as Chairman of the Board and CEO of the Company. As CEO and Chairman, John Gregory participated in the day to day affairs of the corporation in numerous ways including: John Gregory gave statements in press releases containing false and misleading information, such as the press releases of February, 16 1999, April 26, 1999, July 26, 1999, October 26, 1999, February 16, 2000, July 29, 2000, November 2, 2000, February 20, 2001, April 30, 2001, and July 23, 2001; John

Gregory spoke in conference calls containing false and misleading information on such as the call on April 30, 2001 discussing King's first quarter results.

(b) Jefferson Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his position as CEO of the Company. As CEO, Jefferson Gregory participated in the day to day affairs of King in numerous ways including: Jefferson Gregory gave statements in press releases containing false and misleading information, such as the press releases of October 29, 2001, February 19, 2002, April 29, 2002, July 29, 2002, October 28, 2002, and February 18, 2003; Jefferson Gregory spoke in conference calls containing false and misleading information such as the calls on April 30, 2001, July 30, 2001, October 29, 2001, February 19, 2001, April 29, 2002, July 29, 2002, October 38, 2002, and February 18, 2002.

(c) Joseph Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as Vice Chairman of the Company and President of Monarch Pharmaceuticals. As Vice Chairman of King and President of Monarch Pharmaceuticals, Joseph Gregory participated in the day to day affairs of King in numerous ways including: Joseph Gregory spoke in conference calls containing false and misleading information such as the calls on April 30, 2001 and October 29, 2001.

(d) Lattanzi had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his position as CFO of the

Company. As CFO of the Company, Lattanzi participated in the day to day affairs of the corporation in numerous ways including: Lattanzi gave statements in press releases containing false and misleading information such as the press releases of November 2, 2000, February 19, 2001, October 28, 2002, January 29, 2003 and February 18, 2003; Lattanzi spoke in conference calls which included false and misleading information such the calls on April 30, 2001, July 29, 2001, October 29, 2001, February 19, 2002, April 29, 2002, July 29, 2002, October 28, 2002, and February 18, 2003.

(e) Shrader had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his position as CFO of the Company.

COUNT IX

Against Defendants John, Jefferson, Joseph, and James Gregory
and Macione For Violation Of § 20A Of The Exchange Act

282. Lead Plaintiffs incorporate herein ¶¶1-281 by reference. This Count is brought pursuant to § 20A of the Exchange Act on behalf of all purchasers of King common stock during the Class Period, including those persons or entities who purchased King common stock pursuant to or traceable to the April Offering.

283. Defendants John Gregory, Jefferson Gregory, Joseph Gregory, James Gregory and Macione, by virtue of their positions as officers and directors of King had

access to, and were in possession of, material non-public information about King at the time of their sales of 4 million shares of King common stock in November 2001.

284. By virtue of their participation in the scheme to defraud investors described in Count VII and their sale of stock while in possession of material non-public information about King, John Gregory, Jefferson Gregory, Joseph Gregory, James Gregory and Macione violated § 10(b) of the Exchange Act and applicable rules and regulations thereunder.

285. The chart below details John Gregory's sales of King common stock made contemporaneously with Lead Plaintiffs' purchase of shares of King common stock:

Date Sold	Shares	Plaintiff	Date Purchased	Shares
11/01/1999	2,500,000	LACERA	11/01/1999	41,500
12/15/1999	165,000	LACERA	12/15/1999	15,300
6/1/2001	100,000	Detroit P&F	6/1/2001	1,700

286. The chart below details Jefferson Gregory's sales of King common stock made contemporaneously with Lead Plaintiffs' purchase of King common stock:

Date Sold	Shares	Plaintiff	Date Purchased	Shares
12/15/1999	50,000	LACERA	12/15/1999	15,300

287. The chart below details Joseph Gregory's sales of shares of King common stock made contemporaneously with Lead Plaintiffs' purchase of shares of King common stock:

Date Sold	Shares	Plaintiff	Date Purchased	Shares
11/01/1999	2,000,000	LACERA	11/01/1999	41,500

288. The chart below details James Gregory's sales of King common stock made contemporaneously with Lead Plaintiffs' purchase of shares of King common stock:

Date Sold	Shares	Plaintiff	Date Purchased	Shares
9/3/1999	50,000	Detroit P&F	9/3/1999	3,500
9/3/1999	1,356 as Custodian		9/7/1999	800
			9/8/1999	1,300
12/15/1999	10,000	LACERA	12/15/1999	15,300

289. The chart below details Kyle Macione's sales of King common stock made contemporaneously with Lead Plaintiffs' purchase of shares of King common stock:

Date Sold	Shares	Plaintiff	Date Purchased	Shares
12/15/1999	2,472	LACERA	12/15/1999	15,300
12/11/2000	5,000	LACERA	12/11/2000	4,500
			12/12/2000	400
			12/12/2000	4,100

290. Lead Plaintiffs and all other members of the Class who purchased shares of King common stock contemporaneously with sales of King common stock by John Gregory, Jefferson Gregory, Joseph Gregory, James Gregory and Kyle Macione: (i) have suffered substantial damages because, in reliance on the integrity of the market, they paid artificially inflated prices for King common stock as a result of the violations of § 10(b) of the Exchange Act and Rule 10b-5 as alleged in Count VIII; and (ii) would not have purchased King common stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially inflated by John Gregory's, Jefferson

Gregory's, Joseph Gregory's, James Gregory's and Macione's false and misleading statements and concealment. At the time of the purchases by Lead Plaintiffs and the other members of the Class, the fair and true market value of the King common stock was substantially less than the price paid by them.

XV. NATURE OF THE CLAIMS ALLEGED IN COUNTS X AND XI

291. In Counts X and XI below, the Jones Merger Lead Plaintiffs and LACERA assert claims relating to violations of § 14(a) of the Exchange Act, 15 U.S.C § 78n(a), and Rule 14a-9 promulgated thereunder, 17 C.F.R. § 240.14a-9. Specifically, the Jones Merger Lead Plaintiffs and the other members of the Class were damaged by certain of the defendants' use of a false and misleading Jones Merger Proxy and other statements to solicit the vote of Jones Pharma shareholders for the Jones Merger.

292. For purposes of Counts X and XI, the Jones Merger Lead Plaintiffs and LACERA do not assert that defendants are liable for fraudulent or intentional conduct and disavow and disclaim any allegation of fraud for purposes of Counts X and XI. Counts X and XI are based on negligence.

XVI. COUNTS X-XI

COUNT X

Against Defendants King, John Gregory, Jefferson Gregory, Joseph Gregory, Shrader, Bourne, Williams, Deavenport, DeFriece, Rooker, Jones Pharma and Jones For Violations Of § 14(a) Of The Exchange Act And SEC Rule 14a-9 In Connection With The Jones Merger

293. Lead Plaintiffs repeat and reallege each of the allegations set forth herein.

This Count is brought on behalf of the Jones Merger Plaintiffs and LACERA pursuant to § 14(a) of the Exchange Act and SEC Rule 14a-9.

294. Defendants King, John Gregory, Jefferson Gregory, Joseph Gregory, Shrader, Bourne, Williams, Deavenport, DeFriece, Rooker, Jones Pharma and Jones named herein violated § 14(a) of the Exchange Act by soliciting the vote of Jones Shareholders for the Jones Merger by way of a false and misleading proxy statement, the Jones Merger Proxy.

295. Each of these defendants prepared, disseminated and/or approved the false Jones Merger Proxy specified above, which contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including the statements set forth in ¶¶54-65, above. In the exercise of reasonable care, defendants should have known of the material misstatements and omissions contained in the Jones Merger Proxy or that there were omissions of material fact necessary to make the statements made therein not misleading. As such, each of these defendants are liable to the Jones Merger

Lead Plaintiffs and the other members of the Class who exchanged their Jones Pharma shares for shares of King common stock.

296. Defendants named in this Count have violated § 14(a) of the Exchange Act and SEC Rule 14a-9 in that they issued the Jones Merger Proxy to solicit and obtained the votes of Jones shareholders to approve the Jones Merger by making statements which defendants, with the exercise of reasonable care under the circumstances, should have known were untrue and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

297. As a consequence of the foregoing course of conduct, the Jones Merger Lead Plaintiffs and the other members of the Class who exchanged their Jones Pharma shares for shares of King common stock have been damaged.

COUNT XI

Against Defendants John Gregory, Jefferson Gregory,
Joseph Gregory, Shrader And Jones For Violations Of § 20(a)
Of The Exchange Act In Connection With The Jones Merger

298. Lead Plaintiffs repeat and reallege each of the allegations set forth in the foregoing paragraphs, as if fully set forth herein. This Count is brought pursuant to § 20(a) of the Exchange Act on behalf of all persons who acquired King common stock pursuant to the Jones Prospectus.

299. Defendants John Gregory, Jefferson Gregory, Joseph Gregory, and Shrader were each a controlling person of the Company and Jones was a controlling

person of Jones Pharma within the meaning of § 20(a) of the Exchange Act during the Class Period. Specifically, throughout the Class Period, each of the defendants named in this Count had the power and authority to cause the Company and Jones Pharma, respectively, to engage in the wrongful conduct complained of herein by reason of the following:

(a) John Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as Chairman of the Board and CEO of the Company. As CEO and Chairman, John Gregory participated in the day to day affairs of the corporation in numerous ways, including signing the Jones Merger Registration Statement.

(b) Jefferson Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as CEO of the Company. As CEO, Jefferson Gregory participated in the day to day affairs of the corporation in numerous ways, including signing the Jones Merger Registration Statement.

(c) Joseph Gregory had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as Vice Chairman of the Company and President of Monarch Pharmaceuticals. As Vice Chairman of King and President of Monarch Pharmaceuticals, Joseph Gregory participated in the day to day affairs of the corporation, including signing the Jones Merger Registration Statement.

(d) Shrader had the power and authority to cause King to engage in the wrongful conduct complained of herein by virtue of his positions as CFO of the Company. As CFO, Shrader participated in the day to day affairs of the corporation, including signing the Jones Merger Registration Statement.

(e) Jones had the power and authority to cause Jones Pharma to engage in the wrongful conduct complained of herein by virtue of being the Chairman and CEO of Jones Pharma. Jones participated in the daily affairs of Jones Pharma and solicited the approval of Jones Pharma shareholders in the acquisition by King, and he signed the Merger Agreement and a letter mailed to all Jones shareholders soliciting Jones Pharma shareholders to vote in favor of the merger and informing Jones Pharma shareholders that the board of directors of Jones Pharma recommended that Jones Pharma shareholders approve the Jones Merger.

XVII. PRAYER FOR RELIEF

WHEREFORE, Lead Plaintiffs, on behalf of themselves and the members of the Class, pray for judgment as follows:

1. Declaring this action to be a proper class action maintainable pursuant to Rule 23 of the Federal Rules of Civil Procedure and declaring Lead Plaintiffs to be proper Class Representatives;

2. Awarding Lead Plaintiffs and the other members of the Class compensatory damages as a result of the wrongs alleged herein, including interest thereon;

3. Awarding Lead Plaintiffs and the other members of the Class their costs and expenses in this litigation, including reasonable attorneys' fees and experts' fees and other costs and disbursements; and

4. Granting Lead Plaintiffs and the other members of the Class such other and further relief as the Court may deem just and proper.

XVIII. JURY TRIAL DEMANDED

Lead Plaintiffs demand a trial by jury of all issues so triable.

DATED: October 24, 2003

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