DECLARATION OF DR. MARK MITCHNICK

I, Mark Mitchnick, declare under penalty of perjury that the following is true and correct to the best of my knowledge, and if called upon as a witness in these proceedings, could and would competently testify thereto.

1. I am a Medical Doctor and formerly practiced as a pediatrician.

2. My educational background includes an undergraduate degree in Animal Sciences from Purdue University in 1992. My medical degree was obtained from Georgetown University Medical School in 1988 and my residency in pediatrics was at The New York Hospital–Cornell Medical Center, known today as New York-Presbyterian/Weill Cornell Medical Center.

3. During my residency, I started a company called SunSmart, which developed a line of microfine zinc oxide ingredients for use in sunscreens that was ultimately sold to BASF.

I. PARTICLE SCIENCES, INC.

4. In 2002, I formed Particle Sciences, Inc. ("PSI") along with several former SunSmart investors to continue some of the work that had begun at SunSmart. I was the Chief Executive Officer in charge of all operations, contracts, negotiations, and overseeing all of the development work.

5. Each functional area (i.e., formulation and analytics) had separate group leaders. Formulation was originally led by Garry Gwozdz, and it was later led by both Garry Gwozdz and Andrew Loxely. Their job was to direct the day-to-day work on the various formulation projects we had at any given time. On the intranasal diazepam project that ultimately resulted in Valtoco®, Gwozdz and Loxley worked with each other and myself—and jointly with Questcor Pharmaceuticals, Inc. ("Questcor")—on creating, testing, and experimenting on various formulations that would work for the purposes that were identified by Questcor and fine-tuning the target formulation until a successful outcome was achieved.

6. At its core, PSI was a formulation company that was capable of creating unique formulations to meet the needs of various bio-pharmaceutical and chemical companies. PSI was particularly focused on using particulates (including nanoparticles), emulsions, and implants as a means for delivering specific molecules to various parts of the body.

7. From 2002 to 2015, PSI executed hundreds of drug development contracts with biopharmaceutical companies to work on unique formulations for specific pharmaceutical products.

II. INITIAL WORK WITH THE QUESTCOR TEAM

8. In early 2007, I learned that Steve Cartt and David Medeiros from Questcor were interested in creating a new formulation of benzodiazepines that could be delivered intranasally. They specifically identified diazepam as the benzodiazepine they were most interested in. As Cartt and Medeiros explained, there was a strong medical need for creating a nasal spray of diazepam for the treatment of seizure activity. I recall, at the time, only two approved methods for administering benzodiazepines to treat seizures. The first required receiving the drug intravenously at the hospital. The second was a rectal gel known as Diastat® that could be administered outside of the hospital setting.

9. Prior to meeting with the Questcor team, I do not recall PSI having done any pharmaceutical formulation work with diazepam formulations that were intended to be used with patients suffering from epilepsy. But for Questcor having approached PSI to undertake this specific work, PSI would not have independently pursued such formulations, because that was not our business model. PSI was, at that time, not in the business of creating formulations on its own without a partner that would participate in the conception and pay for its development.

10. After several high-level meetings with the Questcor team, we proposed that the parties enter into a confidentiality agreement so that we could: (i) discuss the details of a formulation strategy to approach the problem of developing the pharmaceutical formulation that Questcor was looking to achieve; (ii) protect the information being discussed and developed for future patenting and to ensure that no third parties had access to such information and details; and (iii) set forth some of the parameters for a joint development project. Exhibit 2035 (Bates Neurelis-00094007) is a true and correct copy of the January 19, 2007 Confidentiality Agreement entered into by Questcor and PSI, which I signed on behalf of PSI. The Confidentiality Agreement was made at or near the time of January 19, 2007, and it was made and kept as part of the regular business practice of PSI.

11. After executing the Confidentiality Agreement, PSI did some preliminary work on the proposed formulation, primarily focused around the issue of solubility. We knew that diazepam was not readily soluble in water, which was the preferred vehicle in nasal preparations. Given the amount of diazepam that Questcor wanted in the proposed formulation, we needed to find a unique means for solubilizing diazepam for nasal applications.

12. On March 28, 2007, PSI issued Quote No. QCR 135 to Questcor. A true and correct copy of QCR135 (Bates Neurelis-01027114) is attached hereto as Exhibit 2037. The initial project was summarized as follows:

[redacted]

Exhibit 2037 at 1. QCR 135 was made at or near the time of March 28, 2007. It was made and kept as part of the regular business practice of PSI.

13. As stated in Quote No. QCR 135, PSI was tasked with developing "a number of formulation prototypes . . . to be evaluated using IVRT [in vitro release testing] for ~~drug~~ release screening." Exhibit 2037 at 1. The goals established by Questcor for the ultimate formulation were set forth in Appendix 1 of QCR 135 as follows:

- [redacted]

Exhibit 2037 at 3. In the early phases, we were skeptical that a simple solution with sufficient concentration of diazepam would be feasible, so the initial focus of the research was on suspensions and emulsions.

14. On April 1, 2007, the parties entered into a Master Services Agreement ("MSA") to formalize the joint development and research work envisioned to create a benzodiazepine (diazepam) composition for nasal administration, including QCR 135, as well as set forth the respective rights of Questcor and PSI. Exhibit 2030 is a true and correct copy of the MSA, which I signed on behalf of PSI. The MSA was made at or near the time of April 1, 2007. It was made and kept as part of the regular business practice of PSI.

III. FORMULATING AN INTRANASAL DIAZEPAM SPRAY

15. Cartt and Medeiros worked closely with the PSI team to provide input and feedback regarding the various formulations that we explored. As mentioned above, the solubility issue was

one of the primary focuses and goals of our initial work, and we also investigated using suspensions as well as solutions.

16. Sometime in 2007, we were introduced to David Hale from Hale BioPharma Ventures ("HBV"). We were informed by the Questcor team that Hale was interested in a future acquisition of the nasal diazepam project from Questcor and also in working with us on the formulation development. Accordingly, the Questcor and PSI team included Hale in the discussions and research about the current formulations that were under consideration. Among other topics, we discussed adding an absorption enhancer to the prototype formulations, particularly Intravail® (an alkyl glycoside) from Aegis Therapeutics.

IV. PROVISIONAL PATENT FILINGS

17. In the 2007-2008 time frame, I discussed with the team the need to file provisional patent applications to protect the novel formulations that had been jointly developed.

18. Under the terms of the MSA, Questcor was in charge of preparing and prosecuting patent applications [redacted] Exhibit 2030 at [redacted] Meanwhile, the MSA also specified that any work product that created during the project that was [redacted] would be controlled and owned by PSI. *See* Exhibit 2030 at [redacted]. Even though the parties divided up the patenting responsibilities, all of the members of the Questcor and PSI teams (Cartt, Medeiros, Gwozdz, Loxley, and myself) were fully aware of and informed about all of the formulations that had been jointly researched, designed, and developed under the MSA.

19. Cartt and I discussed how the parties should proceed with and implement an appropriate patenting strategy. The Questcor team retained the law firm of Wilson Sonsini to draft and prosecute a provisional patent application that would disclose and claim the nasal formulations

that were jointly developed by the Questcor and PSI teams. On behalf of PSI, I retained Kathleen Tyrell to draft and prosecute a provisional application that was focused on the solution system that we devised, but which was not specific to nor dependent upon the nasal formulations that we developed for Questcor.

20. As orchestrated by the two patent firms, we simultaneously filed two separate provisional patent applications on the same day (March 28, 2008), so that neither application would create an impediment to the other. The PSI personnel who contributed to the nasal spray formulations – Gwozdz, Loxley, and myself – were listed as co-inventors on the Questcor application, alongside Cartt and Medieros (U.S. Provisional Application 61/040,558) (the "'558 Provisional"). As for the PSI application, the inventors included only the PSI personnel (Gwozdz, Loxley, and myself) (U.S. Provisional Application 61/040,281) (the "'281 Provisional").

21. After the provisional applications were filed, the parties confirmed their respective contributions and rights in the patent applications in an agreement dated April 2, 2008. Exhibit 2040 (Bates Neurelis-00218570) is a true and correct copy of the agreement. In relevant part, the agreement provides:

[redacted]

Exhibit 2040 at 1. The agreement in Exhibit 2040 was made at or near the time of April 2, 2008, when I signed it on behalf of PSI, and it was made and kept as part of the regular business practice of PSI.

22. Under the terms of the MSA, PSI continued its work with Questcor after the filing of the ’558 Provisional. When HBV acquired the Questcor nasal diazepam project, we continued to work directly with Hale.

Date: December 22, 2025

Mark Mitchnick, M.D.