SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA a municipal corporation 400 6th Street, N.W., 10th Floor Washington, D.C. 20001, **PLAINTIFF**, v. **MCKINSEY & COMPANY, INC., UNITED STATES** 711 Third Avenue, 4th Floor New York, N.Y. 10017 **DEFENDANT**.	Case No.: Judge:

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Comes now the Plaintiff, the District of Columbia, by the Office of the Attorney General, and brings this action against Defendant McKinsey and Company, Inc., United States ("McKinsey" or "Defendant") for violating the District of Columbia Consumer Protection Procedures Act ("CPPA"), D.C. Code §§ 28-3901, *et seq*, and states as follows:

I. Parties

1. Plaintiff is the District of Columbia "District," a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1).

2. The District is charged with, among other things, enforcing and seeking redress for violations of District consumer protection laws, including the CPPA.

3. The Attorney General is authorized to bring this action in his *parens patriae* capacity, as the District has a quasi-sovereign interest in the health and well-being—physically and economically—of its citizens who have suffered because of McKinsey's conduct. The District, as a legal entity, has suffered damages and losses as a direct and proximate result of McKinsey's conduct.

4. Defendant McKinsey is a privately owned entity headquartered in New York, N.Y. At all times relevant to this proceeding, McKinsey did business in the District of Columbia.

II. Jurisdiction and Venue

5. The Court has jurisdiction over the Defendant pursuant to D.C. Code §§ 11-921 and 28-3909 because McKinsey has transacted business within the District at all times relevant to this Complaint.

6. The Court has personal jurisdiction over Defendant pursuant to D.C. Code §13-423(a)(3). Defendant has caused tortious injury in the District of Columbia by an act or omission in the District of Columbia.

III. Factual Allegations

7. Beginning in the mid-1990s, opioid manufacturers pursued aggressive sales strategies to increase sales of their prescription opioids, a plan that resulted in a dramatic rise in opioid prescriptions in the District. The rise in opioid prescriptions caused an equally devastating rise in opioid abuse, dependence, addiction, and overdose deaths.

8. Prescription opioids continue to kill hundreds of people across the District every year. Thousands more suffer from negative health consequences short of death and countless others have had their lives ruined by a friend or family member's addiction or death. Every community in the District suffers from the opioid crisis of addiction and death.

9. McKinsey worked with entities involved in manufacturing and selling opioids and thereby contributed to the opioid crisis.

10. McKinsey is one of the world's largest consulting companies. Its partners work worldwide for corporations and governments across diverse industries. Its influence is vast because of its best-in-class reputation. McKinsey sells the notion that it can take whatever a company or government is doing and make them do it better.

11. The District brings this action against McKinsey for the consulting services it provided to opioid companies in connection with designing the companies' marketing plans and programs that helped cause and contributed to the opioid crisis. McKinsey sold its ideas to OxyContin maker Purdue Pharma, L.P. ("Purdue") for more than fifteen years, from 2004 to 2019, including before and after Purdue's 2007 guilty plea for felony misbranding.

12. McKinsey advised Purdue and other manufacturers to target prescribers who write the most prescriptions, for the most patients, and thereby make the most money for McKinsey's clients.

13. Early in their relationship, McKinsey advised Purdue that it could increase OxyContin sales through physician targeting and specific messaging to prescribers. These McKinsey strategies formed the pillars of Purdue's sales tactics for the next fifteen years.

14. In 2008, McKinsey worked with Purdue to develop its FDA mandated risk evaluation and mitigation strategy ("REMS"). McKinsey advised Purdue to "band together" with other opioid manufacturers toward a class REMS to "formulate arguments to defend against strict treatment by the FDA." Ultimately, the FDA adopted a class-wide REMS that resulted in high-dose OxyContin remaining subject to the same oversight as lower-dose opioids.

15. In 2009, Purdue hired McKinsey to increase "brand loyalty" to OxyContin. McKinsey recommended the best ways to ensure loyalty to the brand by targeting specific patients, including patients new to opioids, and developing targeted messaging for specific prescribers.

16. Purdue thereafter adopted McKinsey's proposed prescriber messaging and patient targeting advice and incorporated them into Purdue's marketing and sales strategies.

17. In 2013, McKinsey conducted another analysis of Oxycontin growth opportunities for Purdue, and laid out new plans to increase sales of OxyContin. Among the key components of McKinsey's plan adopted by Purdue were to:

a. focus sales calls on high-volume opioid prescribers, including those who wrote as many as 25 times as many OxyContin scripts as their lower volume counterparts;

b. remove sales representative discretion in targeting prescribers;

c. focus Purdue's marketing messaging to titrate to higher, more lucrative dosages;

d. significantly increase the number of sales visits to high-volume prescribers; and

e. create an "alternative model for how patients receive OxyContin," including direct distribution to patients and pharmacies, to help address the "product access" problem.

18. Purdue approved McKinsey's plan, and together with McKinsey, moved to implement the plan to "Turbocharg[e] Purdue's Sales Engine," under the name Evolve 2 Excellence ("E2E"). E2E significantly increased Purdue's opioid sales, in particular, for OxyContin.

19. McKinsey partners participated as part of an Executive Oversight Team and Project Management Office, reporting to Purdue's Executive, the Purdue board, and with the Sacklers, individually. McKinsey worked side by side with Purdue and helped Purdue plan and implement E2E, assisting with sales representative training, productivity, messaging, and call plans, IT systems, promotional strategies, and market forecasting.

20. In developing the targeted messaging to increase sales of OxyContin, McKinsey conducted significant market research, including through ridealongs with Purdue sales representatives to learn how they promoted OxyContin. McKinsey carefully monitored Purdue sales representatives and provided guidance on prescriber messaging and adhering to target prescriber lists. McKinsey advised that sales representatives do more to promote the so-called abuse deterrent properties of a reformulated version of OxyContin to address prescriber concerns about abuse risk.

21. When a large pharmacy chain took steps to scrutinize suspicious opioid orders, McKinsey stressed to Purdue's owners the "need to take action" on this "urgent" issue affecting OxyContin. McKinsey told Purdue's owners to engage in senior level discussions with the pharmacy chain, increase efforts with patient advocacy groups to clamor against dispensing limits, and accelerate considerations of an alternative distribution channel, such as delivering OxyContin directly to patients through mail-order pharmacies.

22. After E2E, McKinsey continued to work with Purdue, including on a project that identified the growing addiction crisis as a profit-making opportunity. McKinsey told Purdue that it should strive to become a provider across the spectrum of drug abuse and addiction because of the opportunities it presented. McKinsey advised Purdue to get into the manufacturing and marketing of opioid rescue and treatment medications in order to profit from the realities of dependence, addiction, and abuse. Indeed, in 2018, Purdue owner Dr. Richard Sackler received a patent for a drug to treat opioid addiction.

23. McKinsey also partnered with Purdue to test a program called FieldGuide, a proprietary software that McKinsey sought to license to other manufacturers. This software would enable other opioid manufacturers to target and aggressively pursue high-volume prescribers.

24. McKinsey continued to design and develop ways that Purdue could increase sales of OxyContin well after the opioid epidemic peaked. One proposal McKinsey recommended was for Purdue to pay "additional rebates on any new OxyContin related overdose or opioid use disorder diagnosis." McKinsey advised Purdue on its strategies to obtain and maintain broad formulary coverage for OxyContin with insurers and pharmacy benefit managers, even as payors began reducing coverage for OxyContin as the opioid crisis mounted.

25. Subsequently, in the wake of hundreds of thousands of opioid deaths and thousands of lawsuits, McKinsey proposed a plan for Purdue's exit from the opioid business whereby Purdue would continue selling opioids as a way to fund new Purdue ventures. According to McKinsey, this change was necessary because of the negative events that materially compromised the Purdue brand.

26. McKinsey's work for opioid manufacturers extended beyond Purdue. McKinsey collected millions of dollars designing and implementing marketing programs for the country's largest opioid manufacturers, including Johnson & Johnson and Endo, increasing the sale and use of opioids in the District. McKinsey designed and implemented for other opioid manufacturers marketing plans similar to those it created for Purdue.

27. At the same time McKinsey was working for opioid companies, McKinsey also consulted with governments and non-profits working to abate the raging opioid crisis—a crisis that McKinsey's own research showed was caused in large part by prescription opioids.

28. There are indications that individuals at McKinsey considered destroying or deleting documents related to their work for Purdue.

29. In 2019, McKinsey announced that it no longer worked for Purdue or other opioid manufacturers. But the harm created by McKinsey's marketing plans for opioid manufacturers has not stopped.

30. Opioids have killed thousands in the District, and continue to ravage the lives of many more, creating one of the largest public health epidemics in the country's history. Economically, the toll is equally grim. The opioid crisis has forced the District to pay billions of dollars for increased costs in health care, child welfare, criminal justice, and many other programs needed to abate the epidemic.

31. Months after McKinsey stopped its opioid work, Purdue filed for bankruptcy. More than a hundred thousand individuals filed claims for personal injuries. States and local governments filed claims for trillions of dollars incurred as a result of the opioid crisis. Another McKinsey client, opioid manufacturer Mallinckrodt plc, similarly filed for bankruptcy protection in October 2020.

32. In 2019, an Oklahoma state court found that McKinsey client Johnson & Johnson helped cause the opioid epidemic in Oklahoma, ordering it to pay $465 million to help abate the crisis.

33. In 2020, Purdue pleaded guilty to three felonies as a result of conduct spanning a decade – from 2007 to 2017 – during which Purdue worked side-by-side with McKinsey to design and implement marketing campaigns to increase dangerous opioid sales.

34. In 2020, Purdue and the members of the Sackler family who owned Purdue also settled civil claims by the Department of Justice for hundreds of millions of dollars. The materials filed in connection with that plea and settlement agreements contain a statement of facts regarding McKinsey's conduct and involvement in the conduct leading to the civil claims against Purdue and the Sackler family.

IV. Claim for Relief

Unfair and Unconscionable Practices In Violation of the Consumer Protection Procedures Act

35. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if they were set out herein.

36. In the course of its business, McKinsey unfairly and unconscionably worked with certain of its opioid manufacturing clients to aggressively promote and sell more opioids to more patients for longer periods of time.

37. Such actions constitute unfair and/or unconscionable trade practices that are prohibited by the CPPA, D.C. Code § 28-3904 and § 28-3904(r)(5).

38. The acts or practices described herein occurred in trade or commerce as defined in the CPPA.

39. These acts or practices injured consumers in the District. McKinsey's actions directly and proximately caused the District's injuries.

V. Request for Relief

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an Order:

a. Adjudging and decreeing that McKinsey has engaged in the acts or practices complained of herein, and that such constitute unfair and/or unconscionable acts or practices in violation of D.C. Code § 28-3904 and § 28-3904(r);

b. Issuing a permanent injunction prohibiting McKinsey, its agents, servants, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair trade practices;

c. Ordering McKinsey to pay damages pursuant to D.C. Code § 28-3909(b);

d. Ordering McKinsey to pay all costs for the prosecution and investigation of this action, as provided by § 28-3909(b);

e. Ordering such other and further relief as the Court may deem just and proper.

Dated: February 4, 2021

Respectfully submitted,

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Public Advocacy Division

___________s/_____________________
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