

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 William E. Kovacic
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

**Statement Of The Federal Trade Commission
Concerning Subpoena Issued To Paul M. Bisaro**

Today the Commission filed court papers in support of its petition to enforce a subpoena issued to Paul M. Bisaro, CEO of Watson Pharmaceuticals, Inc. The Commission's subpoena enforcement action followed its unanimous letter ruling, dated April 2, 2010, denying Mr. Bisaro's petition to quash the Commission's subpoena seeking his testimony and rejecting his argument that the subpoena was issued for an improper purpose.

The Commission continues to stand behind its subpoena and its investigation. The investigation, which was initiated pursuant to a unanimously adopted Commission resolution, relates generally to a series of agreements entered among the branded drug company Cephalon and several generic drug companies to delay entry of generic versions of Provigil, a sleep disorder medication with nearly \$1 billion in annual U.S. sales. As the Commission has alleged in a related enforcement action against Cephalon, these agreements cost consumers hundreds of millions of dollars a year. The Commission has substantial and legitimate concerns about these pay-for-delay agreements and their impact on consumers.

As today's court filing makes clear, the Commission issued the subpoena to Mr. Bisaro for an entirely proper purpose. The Commission sought to determine whether an agreement between Watson and Cephalon has prevented Watson from relinquishing certain regulatory exclusivity rights. Such an agreement likely would be a *per se* antitrust violation and have enormous negative effects on consumers. For this reason, the Commission sought the testimony of Mr. Bisaro. The subpoena was not issued "to pressure Watson to relinquish any exclusivity rights it may have, and thereby attempt to engineer generic entry into the [Provigil] market," as Mr. Bisaro argued in his petition to quash the subpoena. The Commission continues to believe that it is entitled to Mr. Bisaro's testimony in this matter.