

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, *ex rel.*)
ALCHEMY ASSET SERVICES, INC.)
Plaintiff-Relator,)
)
v.) Civil Action No. 10-680
)
GLAXOSMITHKLINE CONSUMER)
HEALTHCARE LP, and)
GLAXOSMITHKLINE, LLC,)
Defendants.)

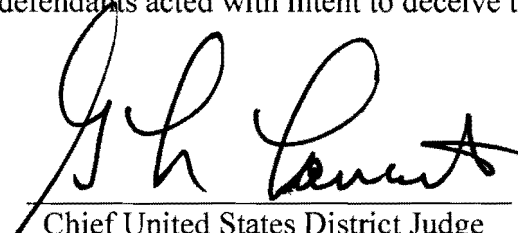
O R D E R

AND NOW, this 17th day of June 2011, after the plaintiff-relator, Alchemy Asset Services, Inc., filed an amended *qui tam* complaint in the above-captioned case, and after the defendants moved to dismiss the amended complaint on several grounds, including for failure to state a claim pursuant to Fed.R.Civ.P. 12(b)(6), and after a Report and Recommendation was issued by the United States Magistrate Judge, and the parties were accorded fourteen days in which to file written objections thereto, and upon consideration of the objections filed by the plaintiff-relator, as well as the defendants' response to those objections, and after independent review of the pleadings, and upon consideration of the Report and Recommendation of the Magistrate Judge, which is adopted and incorporated as the opinion of this Court,

IT IS ORDERED that the defendants' motion to dismiss the amended complaint pursuant to Fed.R.Civ.P. 12(b)(6) (Document No. 28) is granted.

Further, having reviewed the plaintiff-relator's motion for leave to file a second amended complaint and its proposed amended pleading, as well as the defendants' brief opposing that motion,

IT IS ORDERED the plaintiff-relator's motion for leave to file a second amended complaint (Document No. 52) is denied on grounds of futility, as its proposed amended pleading fails to cure the deficiencies in its first amended complaint. That is, in dereliction of Fed.R.Civ.P. 9(b), the proposed second amended complaint fails to set forth facts with sufficient specificity to support an inference that the defendants acted with intent to deceive the public.



Chief United States District Judge