

**PATENTED MEDICINE PRICES REVIEW BOARD**

**IN THE MATTER OF the *Patent Act*,  
R.S.C. 1985, c. P-4, as amended**

**AND IN THE MATTER OF  
Alexion Pharmaceuticals Inc. (the “Respondent”)  
and the medicine “Soliris”**

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**RESPONDING MOTION RECORD OF BOARD STAFF  
(Alleged Conflict of Isabel Jaen Raasch)**

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# **I N D E X**

## **A. Affidavit of Isabel Jaen Raasch sworn September 11, 2015**

Exhibit 1 – Extract from Gowlings website.

Exhibit 2 – Exhibit G to Affidavit of Anna Di Domenico.

Exhibit 3 – Letter from David Migicovsky dated August 28, 2015

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**AND IN THE MATTER OF  
Alexion Pharmaceuticals Inc. (the “Respondent”)  
and the medicine “Soliris”**

**AFFIDAVIT OF ISABEL JAEN RAASCH  
(Sworn the 11th day of September, 2015)**

I, **Isabel Jaen Raasch**, of the City of Chelsea, Province of Quebec,

**MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Director of Legal Services and General Counsel for the Patented Medicine Prices Review Board (“the Board”), and as such have knowledge of the matters hereinafter deposed to.
2. I commenced my employment at the Board on July 7, 2015.
3. Prior to my employment at the Board, I was a partner at Gowlings in the Ottawa office. I was a member of the intellectual property litigation practice group. To my knowledge, Mr. West and Mr. Ruby were not members of the intellectual property practice group while I was at Gowlings.

4. On May 19, 2015 I advised the managing partner of the Gowlings Ottawa Office that I was resigning as a partner and joining the Board as its General Counsel. My last day of work at Gowlings was on June 4, 2015.
5. While employed as a lawyer at Gowlings in Ottawa I had no knowledge of any of the matters related to this litigation or to the representation of Alexion by Gowlings in Toronto. While employed as a lawyer at Gowlings in Ottawa I have never acted for Alexion in any matter. While employed as a lawyer at Gowlings in Ottawa I had no information (confidential or otherwise) regarding Alexion.
6. Attached as **Exhibit 1** is an extract from the Gowlings website.
7. Although Messrs West and Ruby appear to object to my continued involvement on behalf of Board Staff with this litigation, I note that they have never communicated their objections in this regard to me personally.
8. I am advised by David Migicovsky who is one of the counsel for Board Staff in this litigation, that the first time he became aware of Alexion having any issue regarding my involvement in this litigation was when he received the Amended Response to the Statement of Allegations of Board Staff ("Amended Response") on July 20, 2015.







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ABOUT US

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Avocats / Agents de brevets et de marques de commerce*

Reply to/Communiquez avec:  
**David Migicovsky**  
613 566 2802 dmigicovsky@perlaw.ca

July 27, 2015

**BY EMAIL**

Mr. Malcolm Ruby  
Gowlings LLP  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto, ON M5X 1G5

Dear Mr. Ruby:

**Re: IN THE MATTER OF Alexion Pharmaceuticals Inc. and the medicine "Soliris"**  
**Our Reference: PMPR010**

We have received your Amended Response to the Statement of Allegations of Board Staff ("the Amended Response"). The Amended Response is replete with allegations which are irrelevant, scandalous, frivolous, vexatious and an abuse of process. Consequently, we will in due course, be serving you with a motion to strike and a request for the Board to extend the time for filing an Amended Reply until such time as the motion to strike has been determined.

We note that paragraphs 37 (h) and (i) of the Amended Response contain allegations directed at the involvement of Ms. Jaen Raasch in this matter. It is my understanding that prior to Ms. Jaen Raasch leaving Gowlings and joining the Patented Medicine Prices Review Board, Gowlings was advised that Ms. Jaen Raasch would be joining the Patented Medicine Prices Review Board as its General Counsel. I would have thought, therefore, that if you had any concerns about Ms. Jaen Raasch's involvement in this litigation, you would have raised the issue in advance rather than asserting same in the Amended Response. For the record, it is important to note the following facts:

1. Prior to joining the Patented Medicine Prices Review Board, Ms. Jaen Raasch was a partner in the Ottawa office of Gowlings and worked in the intellectual property department focussing on intellectual property litigation. We note from the Gowlings' website that Messrs. West and Ruby are located in the Toronto office and are not listed as being part of the intellectual property group at Gowlings.

Original signature redacted

**THIS IS EXHIBIT "3" TO THE AFFIDAVIT  
OF ISABEL JAEN RAASCH SWORN BEFORE ME  
THIS 11TH DAY OF SEPTEMBER, 2015**

Original signature redacted

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**A COMMISSIONER FOR TAKING AFFIDAVITS**



PERLEY-ROBERTSON, HILL & McDOUGALL LLP/s.r.l.

*Lawyers / Patent & Trade-Mark Agents  
Avocats / Agents de brevets et de marques de commerce*

Reply to/Communiquez avec:  
**David Migicovsky**  
613.566.2833 dmigicovsky@perlaw.ca

August 28, 2015

**BY EMAIL**

Mr. Malcolm Ruby/Mr. Alan West  
Gowling Lafleur Henderson LLP  
1 First Canadian Place  
100 King Street West  
Suite 1600  
Toronto, ON M5X 1G5

Dear Mr. Ruby/Mr. West:

**Re: IN THE MATTER OF Alexion Pharmaceuticals Inc. and the medicine "Soliris"  
Our Reference: PMPR010**

We are writing in response to the notice of motion regarding the alleged conflicts of interest and the affidavit of Anna Di Domenico ("the Di Domenico Affidavit") which was recently served upon us. We will respond to the motion by filing a responding motion record in due course. However, it is important that we set out our concerns arising from your motion materials under separate cover.

Exhibit D to the Di Domenico Affidavit is a copy of a letter dated July 17, 2015 from Alan West to the Chair of the Patented Medicine Prices Review Board concerning this litigation. Exhibit F to the Di Domenico Affidavit is a copy of an email dated July 23, 2015 from Mr. West to Ms. McGillivray regarding this matter. In our submission, it was inappropriate for Mr. West to be communicating directly with the Board regarding this matter. Even if it was appropriate for Mr. West to communicate directly with the Board, it was inappropriate to do so without copying counsel of record. This should not recur. Any future communication regarding this matter must be directed to counsel of record.

I can also confirm that the first time that I became aware of the two letters from Mr. West dated July 17 and 23, 2015 was when I was served with the Di Domenico Affidavit on August 21, 2015. My letter of July 27, 2015 regarding the alleged conflict was written solely in response to



paragraphs 37(h) and (i) of the Amended Response that Alexion served on July 20, 2015.

Yours very truly,

Original signature redacted

David Migicovsky

20:llc

cc Christopher Morris (by email)  
Nathalie Beaulieu (by email)  
Isabel Jaen Raasch (by email)  
Parul Shah (by email)  
Craig Anderson (by email)  
Sharna Kraitberg (by email)  
Anil Kapoor (by email)