

## **PREPARED TESTIMONY OF PATRICK RADDEN KEEFE**

### **“The SACKLER Act and Other Policies to Promote Accountability for the Sackler Family’s Role in the Opioid Epidemic”**

#### **Hearing before the House Committee on Oversight and Reform**

**June 8, 2021**

Chairwoman Maloney, Ranking Member Comer, distinguished members of the committee, thank you for holding this hearing and for inviting me to participate. I’m a journalist with *The New Yorker* magazine, though I’m speaking here today in my own personal capacity. I’ve been investigating the Sacklers and their company since 2017. This has not been easy. The family is extremely secretive and did not cooperate with my efforts; in fact, one branch of the family has been threatening to sue me for the past couple of years. This is typical of their decades-long campaign to suppress the truth about the role that their company played in helping to precipitate the opioid crisis. In April, I published a book called “Empire of Pain,” which tells that story in unprecedented detail. It is an honor to have the opportunity to share some of my findings with you today.

Fourteen years ago, in 2007, at a hearing much like this, Arlen Specter, the late Republican senator from Pennsylvania, made a remark that I often think about. Purdue had recently pled guilty to federal criminal charges of misbranding OxyContin. Three executives pled to misdemeanors, in order to insulate the Sacklers from scrutiny. As one top family lawyer, Stuart Baker, said at the time, the highest priority was “to protect the family” at all costs.<sup>1</sup> Nobody went to jail. The company paid a \$600 million fine, and Arlen Specter remarked that to him, this did not seem like justice. The Sacklers were making billions pushing Oxy. Would a speeding ticket

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<sup>1</sup> Patrick Radden Keefe, *Empire of Pain: The Secret History of the Sackler Dynasty* (New York: Doubleday, 2021), pp. 299-300.

be enough to change their behavior? Specter didn't think so. He worried that for a company like Purdue, a fine—even a big one—is simply “an expensive license for criminal misconduct.”<sup>2</sup>

The Sackler family was intimately involved in the rollout for OxyContin. Richard Sackler said in an email that he “dedicated his life” to it.<sup>3</sup> Kathe Sackler claimed in a deposition that she came up with the idea for the drug.<sup>4</sup> When people started to die from OxyContin, the Sacklers knew. Another company, or another family, might have changed course after learning that a product they sold was killing people. Not the Sacklers. They continued to push for more aggressive marketing, they continued to support false promotional claims about how the drug wasn't addictive. They blamed and demonized the very victims who were getting hooked on their product. Richard Sackler once described these people as “the scum of the earth.”<sup>5</sup>

After that guilty plea, Purdue told a story about how it had changed its ways. But the truth is, the Sacklers didn't see any reason to do things differently. It turns out, Arlen Specter was more right than he knew. At the end of last year, Purdue pled guilty to a new set of federal charges relating to the aggressive promotion of opioids. The company acknowledged criminal misconduct stretching back ten years. So this is a company that has pled guilty to felonies not once but twice. If we were talking about some smalltime crook selling heroin out of the back of his car, that'd be two strikes. A mandatory minimum.

But not for the Sacklers. Once again, it was the company that pled guilty and the family was protected. And this is where it gets really interesting, because between those two guilty pleas, in 2007 and 2020, all these lawsuits start to converge around Purdue. Every state in the union is suing the company. Half the states filed suit against the Sacklers themselves. But all the while, in the background, quietly, the family was pulling money out of the business. Three hundred

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<sup>2</sup> “Evaluating the Propriety and Advocacy of the OxyContin Criminal Settlement,” Hearing before the Committee on the Judiciary, United States Senate, July 31, 2007.

<sup>3</sup> Richard Sackler email, May 22, 1999, cited in Deposition of Richard Sackler, *Commonwealth of Kentucky v. Purdue Pharma LP et al.*, Civil Action No. 07-CI-01303, August 28, 2015.

<sup>4</sup> Deposition of Kathe Sackler, *In Re: National Prescription Opioid Litigation*, MDL No. 2804, United States District Court for the Northern District of Ohio, April 1, 2019.

<sup>5</sup> 2001 email exchange between Richard Sackler and an acquaintance, quoted in *Amended Complaint, State of Connecticut v. Purdue Pharma, LP et al.*, NO. X07 HHD-CV-19-6105325-S, May 6, 2019.

million here. Four hundred million there. So the company is committing crimes, and the family is still very much calling the shots about what's happening at the company, and the whole time those crimes are being committed, the family is siphoning money out. The Sacklers ultimately took more than ten billion dollars out of Purdue.

They did this because they knew a day of reckoning was coming, and they wanted to be ready when it came. So in 2019, when the family had effectively looted its own company, the Sacklers said, "Too bad about all those lawsuits. The company's got no money left! We're kicking it into bankruptcy." When Purdue filed for Chapter 11, all that litigation was put on hold, so the business could be restructured and hundreds of thousands of creditors could fight over the scraps.

Now, the Sacklers have *not* declared bankruptcy. They still have all that money they took out of the company. But they want to use an exotic feature of the bankruptcy process to evade personal liability. What they're hoping is that this federal bankruptcy judge in New York will give them a sweeping grant of immunity from any and all civil lawsuits related to the opioid crisis. And they're ready to sacrifice the company to do it. Protect the family, at all costs. And this bankruptcy judge has indicated that he is inclined to overrule the intentions of the chief law enforcement officers of two dozen states, and give the Sacklers permanent immunity. He maintains that he has the authority to do this—to override the police power of the states, to extinguish the causes of action of plaintiffs, to permanently keep the question of the family's liability for the opioid crisis out of court—despite the fact that the Sacklers themselves have not declared bankruptcy.

If this happens, it will represent a colossal miscarriage of justice. In considering whether to close this loophole or to protect the family, I would urge each of you to think about your own districts, your own constituents, the communities across this country that have been ravaged by opioids; the ordinary people who are the victims of this crisis, who have paid such a high price, even as the Sacklers belittled them and enriched themselves, on this tide of human suffering, to the tune of billions of dollars.

However this matter is settled, most victims of the opioid crisis are not going to get paid. Whatever financial offers the Sacklers or other opioid makers might make will be totally incommensurate to the cost of the crisis, which is estimated to exceed \$2 trillion, to say nothing of the true scope of the suffering and loss, which is impossible to quantify. What victims can and do expect is some measure of justice, and to take that away from them would be a terrible thing.

This is happening, in real time, this summer. The Sacklers are poised to get away with it. As your previous hearing on the family's role in the opioid crisis made clear, this is actually an area of significant bipartisan consensus. There's not a lot of disagreement about who the bad guys are in this story. But if the Sacklers are allowed to pervert the bankruptcy code and shield themselves from liability, they're going to ride off into the sunset. What they have asked for in the bankruptcy process is one last expensive license for criminal misconduct. So please, think about the vast numbers of Americans whose lives have been permanently upended and this one billionaire family that is looking to game the system and get away with it, and ask yourselves, whose side am I on?

Thank you for holding this hearing. I look forward to your questions.

