

# WHITE PAPER #1: PRINCIPLES OF CORPORATE GOVERNANCE

OPKO Health, whose management signals we watch carefully, had allegedly been transferring wealth to insiders for so many years that they appeared to us to allow themselves to become somewhat careless, as they completed the successful hGH trial and subsequently began buying hundreds of thousands of shares a day:

GRAB							
OPK US Equity		Export		Settings		Security Ownership	
OPKO HEALTH INC CUSIP 68375N10							
1) Current	2) Historical	3) Matrix	4) Ownership Summary	5) Insider Transactions	6) Options	7) Debt	
Transaction Type	All	Range	04/26/19	-	06/01/20	10) Chart	11) Table
Shareholders	All						
Trade Date	No. Part	Participants	Net Sell (Shares)	Net Buy (Shares)	Close Price	Volume	
12) 05/28/2020	1	Frost Phillip		100,000	2.1500	8.221MLN	
13) 05/26/2020	1	Frost Phillip		250,000	2.3150	12.68MLN	
14) 05/07/2020	1	Frost Phillip		400,000	1.9500	18.357MLN	
15) 04/17/2020	1	Frost Phillip		325,000	1.7000	9.492MLN	
16) 04/16/2020	1	Frost Phillip		25,000	1.6800	7.557MLN	
17) 04/15/2020	1	Frost Phillip		200,000	1.6300	12.027MLN	
18) 04/07/2020	1	Frost Phillip		400,000	1.2700	11.074MLN	
19) 04/03/2020	1	Frost Phillip		50,000	1.1600	16.872MLN	
20) 04/02/2020	1	Frost Phillip		500,000	1.1500	12.168MLN	
21) 04/01/2020	1	Frost Phillip		643,549	1.2100	13.582MLN	
22) 03/30/2020	1	Frost Phillip		161,968	1.3600	11.709MLN	
23) 03/27/2020	1	Frost Phillip		100,000	1.4000	11.915MLN	
24) 03/26/2020	1	Frost Phillip		200,000	1.3800	8.668MLN	
25) 03/19/2020	1	Frost Phillip		100,000	1.4700	15.565MLN	
26) 03/12/2020	1	Japour Anthony		500	1.4200	15.713MLN	
27) 03/10/2020	1	Frost Phillip		300,000	1.7100	27.681MLN	
28) 03/03/2020	2	Frost Phillip, Japour Anth..		100,500	1.4800	4.507MLN	
29) 03/02/2020	1	Frost Phillip		100,000	1.5550	4.823MLN	
30) 02/28/2020	1	Frost Phillip		125,000	1.5000	6.58MLN	
31) 02/27/2020	1	Frost Phillip		250,000	1.4400	6.71MLN	
32) 02/14/2020	1	Frost Phillip		100,000	1.5700	2MLN	

This shopping spree, which was economically genius as the business inflects in 2020/2021, also resulted in their taking private ownership >40%, as well as tripping other Delaware “Controlling Shareholder” factors, while continuing to engage in “Related-Party” transactions without the “Controlled Board” following correct procedures. After consultation with numerous legal advisors, along with our own intimate knowledge of Delaware Corporate governance, we were left convinced this behavior left little doubt CEO Phillip Frost would be defined as a “Controlling” Shareholder and the Board defined as a “Conflicted Board”: A combination that our corporate jurisprudence rightly safeguards against, precisely for the reason before us today. This is why management discussion of their “40%” vote makes shareholders irrelevant” is a ruse and a red herring, designed to distract shareholders from asking the fundamental questions they would ordinarily ask to value the business. Because as we saw from last week’s changes to OPKO’s Board, of which we believe is just the beginning, genuine corporate governance changes can be made for alleged corporate malfeasance.

On the following pages we will lay out clearly the Corporate Governance Process, but before doing so, we want to remind shareholders of the following recent events which should take on an enhanced meaning now as understanding our timing, shareholders' collective leverage and how Delaware Corporate Governance works should allow investors to focus on the fundamentals instead of being distracted by baseless trivia:

- 1) **As discussed in the press release, OPKO's Board has already agreed, and Delaware Courts have already required corporate governance changes to the OPKO Board. This should allow investors to value OPKO on its future earnings without being stuck in the muck of the past.**

We trust savvier investors will pick up on this incremental change that has already occurred as a signal of the depth of our Corporate Governance analysis and we believe the accompanying Fundamental Value White Paper will answer any lingering questions about the Company's trajectory and undervaluation.

We encourage shareholders to read our investor deck carefully as well as our accompanying Fundamental Value White Paper that delves deeper into the financials to show just how much value Sian believes can be relatively quickly maximized for shareholders. In addition to the corporate governance changes OPKO is instituting, they have already agreed to send Sian Capital a subset of the documents we asked for, which we believe will affirm our fundamental analysis. They did, in our view, suspiciously deny our request for certain specific types of information, which we continue to negotiate as we seek to verify certain allegations learned from in-depth surveys conducted during diligence which work to shareholders' advantage.

- 2) **Stunning Disclosure of Potential Personal Liability for Directors with significant risk the Company can no longer obtain insurance for its Directors and Officers due to repeated egregious past behavior. A nearly unprecedented disclosure, and the initial denial by OPKO's Director & Officer (D&O) Insurance Company to continue to pay for continued reckless inaccurate disclosures and breaches of fiduciary duty for OPKO's Directors and Officers, has placed the risk of further lawsuits as an extraordinary potential personal risk to each member of management and Director.**

It's important to begin with noting that it appears these directors are already so intertwined with the Controlling Shareholder and have already conducted such reckless fiduciary duty breaches, that even insurance companies whom the Company already paid premiums for, refused to provide OPKO directors insurance coverage. This is incredible rare and required such intense disclosure around the risks of not being insurable that we have never seen anything like this before. The disclosure that they may be unable get any insurance at all, from any third party insurance company, leaving directors, for the first time in recent memory, possibly PERSONALLY liable should a significant shareholder bring a lawsuit is not a risk most rational people would take. Even further, they explicitly disclose that if they did get insurance, it would be at significantly more expensive premiums – forcing SHAREHOLDERS TO PAY HIGHER PRICES OUT OF COMPANY CASH BECAUSE OF DIRECTORS REPEATED UNLAWFUL OWN TRANSFER OF WEALTH TO THEMSELVES – as perverse an incentive as we think possible.

Continuing to highlight the risk of the Company's exposure to litigation, we outline below clear cut violations of law. We believe the Board is well aware of this as well. We note that the Board nominated a new director, Anthony Japour, last January, who, with no disclosure to shareholders, opted to leave the Board less than five months later by June, among the shortest, undisclosed directorships we have ever seen. Further, Mr. Japour has no issue with other Boards: he continues to serve alongside Mr. Frost and Mr. Rubin on Cocrystal Pharma's (COCP) Board of Directors. COCP, like nearly every other public company, has Director & Officer (D&O) insurance. Perhaps it was a coincidence. Perhaps it wasn't.

The culmination of insurer denying coverage was an angle we watched as lawsuits and allegations continued to pile up. Amidst the SEC's severe allegations against Mr. Frost, the Company was sued not only by the SEC, but as the house of cards came crumbling down and the clear interlocking interests and wealth transfers from shareholders to Insiders came to light, OPKO was named in several class action lawsuits, more than a dozen derivative lawsuits and other litigation related to the SEC complaint and other corporate governance malfeasance by the Company. During these numerous litigations, OPKO's insurance company appeared to become so appalled with the facts that were being uncovered that they disputed that their insurance covered such transverse acts, refusing to continue to pay for Director and Officer malfeasance. OPKO ultimately came to a partial resolution, but even though the settlement for a class action lawsuit related to the SEC complaint was settled for just \$16.5 million, OPKO was still forced to pay a portion of this out of their own pocket (otherwise known as shareholders' pockets) as insurance refused to cover the full amount. It's important here to make a distinction – if insurance is not available for a future liability related to breach of fiduciary duty, for example, that a significant shareholder may bring, OPKO may not be able to pay on the directors' behalf, because the breach is against the Company itself, conducted by the Directors, leaving Directors potentially personally liable to the Company.

The Company has now begun including a new risk factor in their filings that they may **not have "availability of insurance coverage"**, a risk not previously disclosed and is an extraordinary risk factor as directors and officers would not join Company Boards if they were exposed to personal liability. In the Company's most recent 10-K, they disclosed that:

"Our primary and side A directors and officers' liability **insurance carrier denied coverage** for the class action and derivative suits filed against us and our directors and officers... If we are unsuccessful in this appeal...or **if other third-party insurers deny, cancel, or refuse coverage**, which we are not able to successfully appeal, **or are otherwise unable to provide us with adequate insurance coverage** for all or any of the aforementioned lawsuits, **then our overall risk exposure and operational expenses could increase and the management of our business operations could be disrupted, which could cause a material adverse impact on our business, operations and financial condition.** Further, an unusually large liability claim or a string of claims, like these lawsuits, could potentially exceed our available insurance coverage if any. In addition, the availability of, and our ability to collect on, insurance coverage can be subject to factors beyond our control.

**As our current insurance policies expire, increased premiums for renewed or new coverage, if such coverage can be secured at all, may increase our insurance expense** and/or require us to increase our self-insured retention or deductibles. If the number of claims or the dollar

amounts of any such claims rise in any policy year, we could suffer additional costs associated with accessing excess coverage policies. Also, an increase in the loss amounts attributable to such claims **could expose us to uninsured damages if we are unable or elect not to insure against certain claims because of increased premiums or other reasons.** These lawsuits or the resolution of such lawsuits may affect the availability or cost of some of our insurance coverage, which could materially adversely impact our business, results of operations and cash flows and **potentially expose us to increased risks that would be uninsured.”**

The Company has clearly made the stunning disclosure that it may not be able to secure insurance at all, and if it does, it may be inadequate as was the case this year. Further, note that because of the directors’ & officers’ egregious conduct, if they get insurance coverage, their premiums will increase as this management team and Board are a higher liability. This not only affirms our confirmation of the Board’s breach of fiduciary duty, but also forcing the Company to pay higher premiums comes out of shareholder pockets – **meaning we are paying more because this Board failed to exercise their duties.** In fact, we already are: shareholders are paying DOUBLE in insurance premiums than we paid in previous years, costing shareholders over \$25 million in EBITDA/FCF this year as shareholders are punished in the stock price because the company has to pay out of its own pocket, and for increased premiums. The fact that the Company believes having 40% voting power means they can break the law at will is fortunately, not how our world works.

The net result is we believe it is too extraordinary and large a personal risk to face in any lawsuit, let alone one with merits as strong as ours. We believe the best alternative is to begin to halt all illegal behavior, follow the court-ordered first steps in corporate checks protecting shareholders and to maximize shareholder value, or as we lay out below, potentially expose themselves to unlimited personal liability while losing their board seats.

### **Delaware Corporate Governance**

For obvious strategic reasons, we cannot “give away the store” to our fellow shareholders today. We merely want to point out that two relevant areas of corporate law.

- 1) Securities Laws generally require the Company’s disclosure to be accurate, and
- 2) Delaware law requires Directors to comply with their fiduciary duties, and in situations where a Company has both a “Controlling Shareholder” and a “Controlled Board,” Delaware Courts can actually apply heightened scrutiny, requiring MORE be done to protect public shareholders than in the ordinary course. This heightened scrutiny usually requires specific actions to be taken, often involved votes of unconflicted shareholders or unconflicted Board members.

### **Shareholder Protections.**

We highlight that shareholders were able to obtain more changes to the Company’s Corporate Governance in just the past two weeks than they had in the previous two years, and emphasize that these are not only important changes, but they indicate a significant first step to re-align OPKO closer to Sian’s view. However, we assure shareholders that Sian is not satisfied: we believe OPKO is deeply undervalued today, and our significant experience in helping companies unlock

and optimize further value can be further optimized. We aim for constructive discussions to continue and are pushing for further management alignment with shareholders to continue.

We believe our legal claims are both significant, publicly damaging and clear. Therefore, either the Company itself will optimize the Company's shareholder value, or Delaware Courts may take further steps in forcing change to the Company's corporate structure (as well as significant monetary damages for shareholders.)

## Legal Claims

Sian has carefully catalogued dozens of inappropriate disclosures by the Company. To highlight the continuing nature of the Board's failure to comply with basic Securities laws, we highlight just three examples, exclusively only from the most previous 3<sup>rd</sup> quarter filings less than two weeks ago, that we believe clearly violate Securities Laws and leave investors unable to value the company while leaving the Company liable to its investors.

### 3Q Earnings Press Release:

Management could not go three pages without blatantly contradictory disclosures, highlighting in just its second bullet point under Third Quarter Results:

- **Diagnostics:** Revenue from services in the third quarter of 2020 was \$392.5 million compared with \$181.1 million in the prior-year period, primarily due to increased COVID-19 testing volumes, **partially offset by reduced [core business testing] volumes** related to the pandemic... Total costs and expenses were \$346.4 million in the third quarter of 2020 compared with \$197.5 million in the third quarter of 2019. This **increase represents higher volumes** from **both** COVID-19 testing and **from the core testing business**.
  - **To explain a decrease in revenues, the Company cited a DECREASE** non-COVID volumes, but for unexplained higher expenses, they contradicted themselves blaming an **INCREASE** in non-COVID volumes.
    - **Which is it?**
    - Suspiciously...what is the true reason for the higher expenses or lower revenue? Should Sian bring a lawsuit, Sian will **propose allegations backed by sworn affidavits**.

### 3<sup>rd</sup> Quarter 10-Q

#### Price per Test

- Management disclosed that 63% of its Q3 testing volumes were from COVID-19 testing, implying they conducted just 2.03 million non-COVID testing volumes, implying an unfathomable price of >\$65/core test. To put this into context, the same disclosure implied more in-line price-per-core/test of between \$13-\$15/test for the previous quarter (Q2 2020), as well as the comparable 2019 quarters (Q2 2019 and Q3 2019) and more in line with industry average.
  - Either management has discovered an undisclosed breakthrough test that is so high it took the average price per test by 5x per test in just 3 months, or it has provided more inaccurate disclosure, leaving investors unable to value the core-testing business.

- Alternatively, the Company is attempting to disguise alternate revenue. We have asked for these documents.

### Royaldee COVID-19 Trial Results

- Management received FDA approval on June 1, 2020 to fast-track approval for Royaldee as treatment for COVID-19, with the FDA requiring just 160 patients over a 28 day study – an extraordinarily short timeline. Further, more than a dozen tangential studies have noted strong correlations implying positive results. In fact, in Spain, they definitively determined that Calceidol, the main ingredient Royaldee produces, helps treat COVID-19 symptoms. Just this week, since Royaldee isn't approved in Europe yet until 2021, European countries have distributed millions of doses of Vitamin D, a poor substitute but best alternative for people to take prophylactically.
  - Relatedly, it utterly baffles us, that the Company has not made Royaldee available for purchase by European countries or made the public or U.S. government more aware so they could do the same.
    - Unless, of course, they intended to keep the stock price low in order to continue their “creeping buyout” without paying shareholders for control premium.
- Given the direness and humanity of the COVID-19 situation, not to mention the extraordinary monetary and reputational opportunity, one would think this would be a top priority for the Company. Except the Company announced June 1, 2020 it received approval with results to come by Q4 2020. Then they stated that the trial would start at the end of August and the reason for the delay was they applied for BARDA funding and were waiting for it (Why? One can both do the study and simultaneously apply for BARDA funding) but wouldn't wait longer and would apply simultaneously and topline results were still expected before the end of the year. Then the trial was further pushed back to September for unknown reasons and data was pushed back to Q1 2021. [In between this time, is when we learned Chairman Frost and Vice Chairman Hsiao separately received FDA approval to purchase over 50% of the company] Later, in October, the Company re-moved the timing for results to the end of the year in Q4 2020. More bizarrely, on the official FDA clinical site, OPKO states results will not come until February 2021.
- Again, the official FDA website should be the guiding principle, but the Company just stated data would come in Q4 2020. Further they have alternatively said they already started the trial, or would be recruiting for trial shortly, while the FDA website continued to say “Not yet recruiting” [Screenshots of dates and detailed timeline available upon request].

### Breach of Fiduciary duty

Delaware Corporate Law is by far the most developed corporate law in the country.<sup>1</sup> It is well established that Directors of a public company owe a duty of loyalty to the corporation and its stockholders, which requires that a director act in good faith and in the best interest of the

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<sup>1</sup> See *generally* Anish Monga, Using Derivatives to Manipulate the Market for Corporate Control, 12 Stan. Journal of Law, Business, & Finance. 186 (2006)

corporation and stockholders, rather than in the director's own interests **or the interests of someone who the director is beholden to, controlled by, or otherwise dependent on.**

Much of corporate law centers around issues of two related concepts of “control”: a stockholder with substantial stock and control (“a Controlling Shareholder”) and a Board of directors that is not “disinterested” (a “Controlled Board”). When both of these are true at the same Company, Related-Party transactions are subject to heightened scrutiny. We believe numerous previous cases have left it well established that Frost is a Controlling Shareholder and the OPKO Board is Conflicted and need not repeat them here.

### **Personal Breach by Dr. Frost and his affiliates**

Where there is a Controlling Shareholder, two basic legal rules apply. First, where the controlling shareholder is a Director [as is true in OPKO], then any contract between the controlling shareholder and the corporation is defined as “an interested transaction” and must meet the standards of statutes like Delaware General Corporation Law section 144, which requires that any such transaction must be “sanitized” through either a majority vote of disinterested directors, stockholder vote or the contract or transaction is fair as to the corporation as ratified so by the board of directors or a vote of stockholders.<sup>2</sup>

The second category concerns the controlling shareholder's direct dealings with the controlled corporation. This category includes numerous such dealings present in in OPKO, for example, in contracts with controlling shareholders where they can disparately benefit. Here, If the controlling shareholder may benefit at the possible expense of the corporation, courts will apply “the entire fairness standard” -the most rigorous in corporate law jurisprudence”. In that situation, the controlling shareholder bears the burden of proving that the terms of the transaction were intrinsically fair, with the court making a de novo determination.”<sup>3</sup>

Because the threat that controlling stockholders pose is distinct from that posed by directors, “Delaware courts have long acknowledged that the duty of loyalty imposed on controlling shareholders is a very different constraint from the duty of loyalty imposed on corporate directors.”<sup>4</sup>

### **Breach of Fiduciary Duty by the Board**

Courts generally review a transaction under entire fairness when a majority of directors **are personally interested in a board's decision, not independent from an interested individual, or otherwise dominated by someone who is interested.**<sup>5</sup> [Emphasis added]

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<sup>2</sup> (DEL. CODE ANN. tit. 8, § 144 (2001))

<sup>3</sup> *Ronald J. Gilson & Jeffrey N. Gordon, Controlling Controlling Shareholders*, 152 U. Pa. L. Rev. 785, 786–87 (2003)

<sup>4</sup> *Cinerama, Inc. v. Technicolor, Inc.*, Civ. A. No. 8358, 1991 WL 111134, at \*19 (Del. Ch. June 24, 1991),

<sup>5</sup> See, e.g., *Ivanhoe Partners v. Newmont Mining Corp.*, 535 A.2d 1334, 1341 (Del. 1987); *In re PNB Holding Co. S'holders Litig.*, No. Civ.A. 28-N, 2006 WL 2403999, at \*12 (Del. Ch. Aug. 18, 2006); *AC Acquisitions Corp. v. Anderson, Clayton & Co.*, 519 A.2d 103, 111 (Del. Ch. 1986); see also DEL. CODE ANN. tit. 8, § 144(a) (West 2020). Some scholars argue that even independent directors may have incentives to follow a controlling stockholder's

Having established the Relevant law and standards, here is a small sampling of some examples of what we believe are clear violations of each duty:

### Transferring public shareholder value to Company Insiders (Breach of Fiduciary Duty)

Transactions with Controlling Shareholders, especially with a Controlled Board are generally required to be “cleansed” through a disinterested director vote, stockholder vote or otherwise is subject to “entire fairness” review – the most exacting standard of judicial review, with the burden of proof on the Controlling Shareholder. We believe the Board did not follow these procedures, leaving them exposed personally for each of the following transactions:

- Company used shareholder money, in four separate instances in 2019 and 2020, to pay Vice Chairman and CTO Jane Hsiao and Chairman and CEO Frost to reimburse them for personal filing fees related to their own purchases of stock
  - Note that the Company’s paying of these filing fees has facilitated Frost and Hsiao’s obtaining de facto voting control of the Company, at the shareholders further expense
- On Feb 25, 2020 Board entered into a \$100 million Credit Facility with CEO Frost paying him fees even if the facility is unused. Critically, less than four months earlier, and three times in the one year Oct/Nov 2018 – Oct/Nov 2019, the Company had issued potential equity<sup>6</sup> of 158 million shares (~25%(!) dilution of shares outstanding in just one year) raising \$368 million, leaving the Company with no need for the cash, yet entered into the facility anyway as it would be akin to paying Frost his own dividend as they paid him quarterly fees as long as it was outstanding whether used or unused.
  - Moreover, when the Company needed \$70 million, in the prior quarter to this \$100 million credit facility, Frost did not offer this Credit Facility. This forced the company to issue ~55 million shares at a price of \$1.50/share for cash needed to complete its clinical trial, thereby diluting public shareholders by approximately 9% of shares outstanding. At the \$4.30 share price on the date of our public presentation prior to our letter to the Company, this represented additional dilution of \$154 million or 5.3% for total dilution to of 14.3%. Instead, after diluting public shareholders, the Company entered into an unnecessary credit facility it didn’t need, has never used, the Company has access to significantly cheaper funds under a credit facility with JPMorgan, obtained access to cash under the CARES Act just a month later and has generated positive free cash flow in every quarter since and is forecasted to do so again this quarter. Note that the Board still continues to pay Dr. Frost for this unused Credit Facility.
- On March 1, 2019, the Board exchanged its rights to the IP in its novel CAR T platform technology with Xenetic Biosciences. Xenetic’s technology was co-founded by OPKO’s director Richard Lerner, **who personally received in excess of 30,000 shares of Xenetic due to the OPKO transaction**. Further, OPKO CFO Adam Logal is a director of Xenetic.

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*wishes or otherwise lack adequate incentives to protect other investors. See Bebchuk & Hamdani, supra note 18, at 1284.*

<sup>6</sup> Twice in shares and once in the form of convertible notes.

- Not a single analyst that covers OPKO has ascribed any value OPKO has gained from this transaction nor has the Company discussed this transaction in the nearly 2 years it has occurred as any bringing any value (other than to its Company Insiders)
- On Nov 8, 2018, the Board decided to enter into a \$60 million credit agreement with CEO Frost paying him an exorbitant 10% interest rate. Note that just two months prior, Dr. Frost was charged by the SEC in a pump-and-dump scheme, causing the company's share price to decline 40%. Further, Dr. Frost settled with the SEC less than two months later, in a settlement that forced the Company to also pay the SEC for failure to disclose Dr. Frost's alleged fraudulent actions, despite not knowing about them. Ironically, to pay the SEC fine, they ostensibly just used Frost's money he loaned them at and paying him predatory interest rates on that money, to pay a settlement caused by his alleged illegal actions. The following month after the settlement after subsidizing Frost's penalty, the Company terminated the Credit Agreement. Note the Company never even used half the Credit Agreement.
- Despite OPKO's precarious cash position (a position so precarious it apparently had to agree to 10% interest rates), The Board agreed to use shareholder money to pay for helping to construct and operate the Frost Science Museum, to which Dr. Frost is naturally a director and OPKO's "lead independent director" Richard Pfenniger is Vice Chairman. Frost also arranged for Pfenniger's son to work as an executive at the Frost Science Museum, ostensibly partially using OPKO's money for operations to pay his salary. The Frost Science Museum does not disclose compensation paid to Frost, Pfenniger or Pfenniger's son for their roles at the Frost Science Museum.
- OPKO's Board decided to lease from Frost 25,000 sq feet of office space in 2015 for ~\$66k/month. OPKO's market capitalization was \$8 billion at the time. By 2019, OPKO market cap had fallen more than 75% to less than \$1.5 billion. Despite this, the Board opted to increase its rental space by 20% to ~30,000 sq feet for a rate 33% higher for \$86k/month. Then, despite the contract still in operation at \$86k/month, OPKO amended the lease to begin to increase its rent to over \$1 million/year and then entered into escalators taking the lease to over \$101,000/month locking themselves in for another 5 years.
  - The core of the claim is failure of process, but we'd be remiss to not mention that the company's 30k sq feet houses less than 100 employees – an astounding 300 sq feet per employee.

OPKO Board decided to have shareholders reimburse Frost for business-use of his personal plane by him and other OPKO employees. The Company has paid Frost ~\$2 million since 2015 for OPKO executives to fly in Frost's private plane.

- OPKO has invested in a number of microcap stocks that have not served any shareholder purpose in recent years, with the Board still choosing to hold these stocks instead of selling them when they needed cash, choosing to dilute public shareholders instead. In fact, the Company used more cash to buy more microcap stock in some of these companies in 2017 and 2018. Nearly every company OPKO has chosen to invest in is one in which one of its directors or executives also own and/or are directors/executives of, including Zebra (ownership 29%),

Neovasc (2%), ChromaDex Corporation (0.1%), MabVax (1%), COCP (5%), NIMS (1%), Eloxx (3%), and BioCardia (2%).

We repeat this is but a small sampling of transactions benefitting a Controlling Shareholder by a Controlled Board. In particularly dire situations like we have here where the Board behaves particularly egregiously and does not even attempt to engage with shareholders, Courts have broad powers to determine an equitable solution.