IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

DENISE CAMPBELL, on behalf of herself and those similarly situated, Plaintiff, v. IMMUNOSYN CORPORATION, ARGYLL BIOTECHNOLOGIES, LLC, JAMES T. MICELI, DOUGLAS A. MCCLAIN, JR, FRANK MORALES, ARGYLL EQUITIES, LLC, STEPHEN FERRONE, and DOUGLAS A. MCCLAIN, SR., Defendants.	)	CIVIL ACTION NO. B-09-197

FIRST AMENDED COMPLAINT AND JURY DEMAND
AND PROPOSED CLASS ACTION COMPLAINT

Now comes Denise Campbell on behalf of herself and others similarly situated and for their complaint states as follows:

Parties

1. Plaintiff, Denise Campbell ("CAMPBELL"), is a resident of Bruce Mines, Ontario, Cananda. CAMPBELL has MS.

2. Defendant, Immunosyn Corporation ("IMMUNOSYN"), is a Delaware corporation with its principal place of business at 4225 Executive Square, Suite 260, La Jolla, California.

3. Defendant, Argyll Biotechnologies, LLC ("ARGYLL BIOTECH"), is a Texas limited liability company with its principal place of business at 4225 Executive Square, Suite 260, La Jolla, California.

4. Defendant, Argyll Equities, LLC ("ARGYLL EQUITIES"), is a Texas limited liability company, with its principal place of business at 4225 Executive Square, Suite 260, La Jolla, California.

5. Defendant, James T. Miceli ("MICELI"), is a resident of California. MICELI is the Chief Executive Officer of ARGYLL BIOTECH and ARGYLL EQUITIES.

6. Defendant, Douglas A. McClain, Jr. ("MCCLAIN"), is a resident of Georgia. MCCLAIN is the President of ARGYLL BIOTECH and ARGYLL EQUITIES and the Chief Financial Officer of IMMUNOSYN.

7. Defendant, Frank Morales ("MORALES") is a resident of Brownsville, Texas, with a last known address of 2805 Hackberry Lane and at all material times hereto was associated with Rio Valley Medical Center.

8. Defendant, Stephen Ferrone ("FERRONE"), is a resident of Illinois. FERRONE is the President of IMMUNOSYN.

9. Defendant, Douglas A. McClain, Sr. ("MCCLAIN SR.") is a resident of Texas. MCCLAIN SR. is an owner and/or controlling person with respect to ARGYLL EQUITIES and/or ARGYLL BIOTECH.

Jurisdiction and Venue

10. This action is brought personally by CAMPBELL pursuant to the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78m, 78r and 78t and RICO statute 18 U.S.C. § 1964 *et seq*. Jurisdiction of this court and venue in this district are proper pursuant to 15 U.S.C. § 78aa and 18 U.S.C. § 1964 *et seq*. Further, jurisdiction is conferred under 15 U.S.C. § 1332(a)(1) because the Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds $75,000 in damages.

Governing Law

11. Pursuant to 15 U.S.C. § 78m, IMMUNYSON and its principals are required to maintain public filings and books and records for the benefit of investors that accurately and fairly reflect the transactions and dispositions of the assets of the issuer and maintain financial records that conform with generally accepted accounting principles.

12. Pursuant to 15 U.S.C. § 78r (a), "Any person who shall make or cause to be made any statement in any application, report, or document filed pursuant to this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement as provided in subsection (d) of section 78o of this title, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who, in reliance upon such statement, shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant."

13. Pursuant to 15 U.S.C. § 78t (a) and (b), "Every person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action." "It shall be unlawful for any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of this chapter or any rule or regulation thereunder through or by means of any other person."

14. Pursuant to 17 C.F.R. § 240.10b-5, "It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange, (a) To employ any device, scheme, or artifice to defraud, (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

15. Pursuant to 18 U.S.C. § 1964 (c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962.

16. Pursuant to 18 U.S.C. § 1962 (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. Pursuant to 18 U.S.C. § 1962 (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. Racketeering is defined by Section 1961 and includes mail fraud.

Background of the Defendants and Corporate Entities

17. On or about January 15, 1999, MICELI, MCCLAIN, SR. and MCCLAIN, JR. entered into a written partnership agreement, "for the purpose of devising, creating, designing, pursuing, formulating, enacting and engaging in all companies, corporations, partnerships or legal entities which are or have been or will be used by the parties for the purpose of creating any income or tangible item recognized as having value foreign or domestic" with a term of "fifteen years." (hereinafter the "Partnership Agreement").

18. On or about August 26, 1999, MICELI was convicted of felony money laundering, forgery, perjury and theft over $100,000 in the State of Illinois.

19. Thereafter, MCCLAIN, SR., MCCLAIN and MICELI worked together at International Profit Associates ("IPA") in Illinois.

20. Through IPA, MCCLAIN SR. became involved with a public entity known as Nextpath Technologies. MCCLAIN SR. was able to obtain and sell a large volume of shares of Nextpath Technologies to unsuspecting investors, based on false information concerning the company, for approximately $6,000,000.

21. MCCLAIN SR. received funds and/or distributed Nextpath Technologies stock certificates through the US mail or other carriers interstate to unsuspecting investors.

22. MCCLAIN SR. communicated with prospective investors over the telephone, interstate, to convince and deceive them into purchasing Nextpath Technologies stock.

23. Salvatore and Frank Bramante (hereinafter the "Bramanates") were investors duped by MCCLAIN SR. to buy Nextpath Technologies stock based upon false and misleading information.

24. The Bramantes were promised unrestricted stock in Nextpath Technologies, a public company, but after much delay, were provided with restricted stock by MCCLAIN, SR.

25. The Bramantes sued MCCLAIN, SR. in United States District Court for the District of Massachusetts and obtained judgment against him on June 1, 2005 for about $4,500,000.

26. After MCCLAIN, SR.'s involvement with Nextpath Technologies, MCCLAIN, SR., MCCLAIN, JR. and MICELI left IPA and worked together in an entity called FIT Management.

27. Money from the sale of Nexthpath Technologies stock was used to finance the start of FIT Management. FIT Management financed the start of ARGYLL EQUITIES.

28. As a result of numerous civil judgments against FIT Management and/or MCCLAIN, SR., MCCLAIN, SR. did not publically own ARGYLL EQUITIES, but instead operated for the company as a consultant and secret owner.

29. ARGYLL EQUITIES had the appearance of a legitimate financial/stock lender, but operated more akin to a Ponzi scheme, as described in a lawsuit brought by Gerald W. Schlief, Southern District of Texas, Houston Division, C.A. No. 08-cv-2128. The Gerald W. Schlief lawsuit alleges that MICELI, MCCLAIN SR. and others violated the Racketeer Influenced and Corrupt Organizations Act ("RICO") and committed numerous racketeering activities.

30. ARGYLL EQUITIES was used to defraud several investors and/or companies, including but not limited to Gerald W. Schlief, T. Paul Bulmahn, Siko Venture Limited, Louis D. Paolino, Jr., and Servicios Directivos Servia, S.A. de C.V. Each of these persons/entities brought civil lawsuits against ARGYLL EQUITIES.

31. Upon information and belief, numerous unsatisfied civil judgments exist against ARGYLL EQUITIES, FIT Management, and MCCLAIN, SR. for fraud and/or stock lending fraud. See Exhibit A hereto (According to counsel to Defendants, Mr. Bulmahn has unsatisfied judgments in the approximate amount of $69,000,000 against Argyll Equities, James T. Miceli and Douglas A. McClain, Jr. Further, Plaintiffs in SA-10-CA-534-OLG hold an unsatisfied judgment against Douglas A. McClain, Sr. entered June 1, 2005 in the face sum of $575,000.)

32. During ARGYLL EQUITIES' demise in 2006 and 2007, as a reputable and financially stable company, through numerous lawsuits and judgments entering against it, ARGYLL EQUITIES' financed the start up of ARGYLL BIOTECH.

33. ARGYLL BIOTECH and/or ARGYLL EQUITIES financed the start up of IMMUNOSYN and financially control IMMUNOSYN.

34. At all relevant time hereto, ARGYLL BIOTECH claimed to own, develop, and promote a drug called SF-1019.

35. At all relevant times hereto, IMMUNOSYN claimed in its SEC filings and website to own the exclusive rights to market and sell SF-1019.

36. Similar to MCCLAIN, SR.'s false and misleading promotion and sale of Nextpath Technologies stock, the DEFENDANTS, acting together, have engaged in the false and misleading promotion of IMMUNOSYN stock, for financial gain, to the detriment of others.

37. Upon information and belief, the MICELI, MCCLAIN, JR. and/or MCCLAIN, SR., personally or through entities that they control, have sold IMMUNOSYN stock from April 2007 through the present totaling more than $14,000,000.

38. MICELI, MCCLAIN, SR., and MCCLAIN, JR., personally and through ARGYLL BIOTECH, have been involved in the distribution of SF-1019 throughout the United States.

39. MICELI, MCCLAIN, SR., and MCCLAIN, JR. have been personally involved in the retention of profits from the sale of SF-1019.

40. MICELI, MCCLAIN, SR., and MCCLAIN, JR. have been personally involved in the development of media statements and promotional statements made on their companies' websites concerning SF-1019.

41. MICELI, MCCLAIN, SR., and MCCLAIN. JR. control ARGYLL EQUITIES, ARGYLL BIOTECH and IMMUNOSYN.

42. MICELI, MCCLAIN, SR., and MCCLAIN, JR. have financially stripped ARGYLL EQUITIES and ARGYLL BIOTECH of assets purposely and through the judgments rendered against said companies due to their active fraud. Prior to leaving ARGYLL EQUITIES and ARGYLL BIOTECH "judgment proof," said entities were used by MICELI, MCCLAIN, SR. and MCCLAIN, JR. to commit fraud upon DENISE CAMPBELL.

43. With respect to the operation of ARGYLL EQUITIES and ARGYLL BIOTECH, MICELI, MCCLAIN, SR., and MCCLAIN. JR. have failed to follow corporate formalities, segregate their personal assets from business assets, and make required tax filings for money received by them from the companies and money paid to employees, consultants, and 1099 labor.

44. MICELI, MCCLAIN, SR., and MCCLAIN, JR. are the alter egos of ARGYLL EQUITIES and ARGYLL BIOTECH.

45. MICELI, MCCLAIN, SR., MCCLAIN, JR. and ARGYLL BIOTECH knowingly provided SF-1019 to FRANK MORALES and MITCHELL MELLING to sell and administer to MS sufferers in and outside of the United States.

The Fraud Upon the Plaintiff

46. CAMPBELL viewed Alan Osmond on Larry King live and heard about a drug he was taking and promoting for MS.

47. Following the TV show, CAMPBELL went to Alan Osmond's website, which led her to ARGYLL BIOTECH's website, and ultimately IMMUNOSYN's website, to read about SF-1019, a drug being promoted by Alan Osmond, ARGYLL BIOTECH and IMMUNYSON.

48. ARGYLL BIOTECH's website is linked to a promotional letter from Alan Osmond for ARGYLL BIOTECH and SF-1019.

52. On or about January 10, 2008, after viewing IMMUNOSYN's, ARGYLL BIOTECH's and Alan Osmond's websites, CAMPBELL purchased 200 shares of Immunyson stock at $2.35 a share for a total cost to her of $508.48.

53. IMMUNOSYN's website made statements concerning the approvals for and effectiveness of SF-1019, not limited to, a claim that SF-1019 had been effective in diabetic ulcer healing.

54. In early March 2008, CAMPBELL communicated, through her sister, with Alan Osmond via email concerning SF-1019 and was directed by someone responding to Alan Osmond's emails to Dr. Mitchell Melling in Utah to learn about obtaining SF-1019.

55. During March/April 2008, CAMPBELL spoke to Krystal Bradshaw at Dr. Mitchell Melling's office concerning obtaining SF-1019.

56. Ms. Bradshaw, an agent of Dr. Melling, assured CAMPBELL of the success patients were having with SF-1019.

57. Dr. Mitchell Melling's office referred CAMPBELL to Dr. Frank Morales in Texas to obtain SF-1019.

58. MORALES was obtaining SF-1019 from ARGYLL BIOTECH or its agent.

59. CAMPBELL contacted MORALES' office during April 2008 to learn about SF-1019 and to obtain it.

60. CAMPBELL was told by an agent of MORALES that patients of Dr. Morales were having great success with SF-1019, some of them "getting out wheel chairs and walking."

61. In April and May 2008, CAMPBELL purchased SF-1019 from MORALES through Rio Valley Medical Center.

62. MORALES shipped SF-1019 from Brownsville, Texas to Michigan so that CAMPBELL could pick up the drug in the United States.

63. CAMPBELL paid MORALES and/or Rio Valley Medical Center about $1,450 for four vials of SF-1019 ("BATCH ONE").

64. MORALES was the owner of Rio Valley Medical Center.

65. SF-1019 has never been approved by the FDA for sale in the United States.

66. SF-1019 has not passed typical safety protocols for FDA approval.

67. CAMPBELL injected herself with the SF-1019 from BATCH ONE. CAMPBELL was under the impression that the SF-1019 from BATCH ONE improved her medical condition.

68. On August 12, 2008, IMMUNOSYN claimed to have received governmental approval from Malaysia for SF-1019 for treatment, marketing and distribution in Malaysia.

69. Based upon the information on IMMUNOSYN's and ARGYLL BIOTECH's website, including the new governmental approval received in Malaysia, and the success stories heard from MORALES' office, CAMPBELL purchased IMMUNYSON stock again on October 15, 2008.

70. Upon information and belief, Alan Osmond was paid by ARGYLL EQUITIES and/or ARGYLL BIOTECH to promote SF-1019 and received stock to promote SF-1019.

71. Alan Osmond promoted SF-1019 by claiming its effectiveness, to further his financial interest in the product, which was not disclosed to CAMPBELL and others.

72. In 2007, a safety study was performed on SF-1019 by one or more of the DEFENDANTS through Iso-tex Diagnostics in Friendswood, Texas, the manufacturer of SF-1019. Four rats died during the safety study. The draft report of the results stated, among other things, "[the study] should not be used in any way, shape or form to advance product registration of SF-1019 with any regulatory agency. To do so would invite problems. The deaths during the study are troubling."

73. The DEFENDANTS have not reported the results of safety studies on SF-1019 to CAMPBELL or the public, said results would have been important to CAMPBELL and others in deciding whether to take SF-1019.

74. IMMUNOSYN claims in its annual report for the fiscal year ending December 31, 2007 that, "Argyll Biotech's only data regarding the safety and efficacy of SF-1019 is based on uncontrolled observations of a precursor to SF-1019 among a small group of individuals, not SF-1019 itself."

75. ARGYLL BIOTECH claimed on its website that, "Following a series of toxicity studies in animals, SF-1019 demonstrated a positive safety result."

76. ARGYLL BIOTECH also claimed on its website to have completed a first phase proof of concept trial in Europe.

77. ARGYLL BIOTECH also claimed to have obtained "informed consent" approval in the EU and "compassionate waiver" status in the US.

78. Upon information and belief, ARGYLL BIOTECH has not completed a first phase proof of concept trial in Europe and has not obtained approval to distribute SF-1019 in the EU or US under an "informed consent" or "compassionate waiver" status.

79. Being unaware of Alan Osmond's financial interest in SF-1019/Immunosyn and the safety studies on SF-1019, CAMPBELL relied upon the promotional statements made by Alan Osmond, Immunosyn's website, and ARGYLL BIOTECH's website, in purchasing SF-1019 and Immunosyn stock.

79. In May 2008, CAMPBELL contacted MORALES for a second time to obtain more SF-1019. MORALES sold CAMPBELL 12 vials of what was purported to be SF-1019 for about $3,750 ("BATCH TWO").

80. CAMPBELL injected herself with SF-1019 from BATCH TWO over a period of time.

81. Upon information and belief, BATCH TWO contained no active agents and/or was water or saline solution.

82. MORALES and/or the DEFENDANTS misrepresented to CAMPBELL the contents of the drug being sold to her as SF-1019.

83. CAMPBELL relied upon the representations in the aforementioned websites and of MORALES in purchasing SF-1019.

84. After becoming concerning with BATCH TWO of SF-1019, CAMPBELL sold IMMUNOSYN stock on or about May 8, 2009 at a monetary loss.

85. IMMUNOSYN has reported no revenue for 2007 and 2008. IMMUNOSYN's 10-Q dated May 15, 2008 claims, "As of the date of this report, we have no revenue and limited operations." This 10-Q is signed by MCCLAIN and FERRONE.

86. SF-1019 has been sold for a profit in the United States during at least 2008.

87. ARGYLL BIOTECH, through MICELI, MCCLAIN, SR. and MCCLAIN, JR. have been selling SF-1019 through various commercial channels, including MORALES and Mitchell Melling, exchanging SF-1019 for services and good will, and failing to report and/or allocate income to IMMUNOSYN to the detriment of its stockholders, including CAMPBELL, an in violation of IMMUNOSYN's exclusive right to market and sell SF-1019.

88. The SEC filings made by IMMUNOSYN, as reported and/or signed by MCCLAIN, JR. and FERRONE, have been false and/or misleading.

COUNT I – THE EXCHANGE ACT/SECURITIES FRAUD

89. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 1-88 as if fully stated herein.

90. MCCLAIN, JR. and FERRONE, as officers of IMMUNOSYN, signed an SEC Filing known as a 10-QSB for the period ending 9/30/07 stating that IMMUNYSON had the "exclusive worldwide license to market, distribute and sell . . . SF-1019."

91. IMMUNOSYN's website and press release dated October 25, 2007 contained therein, as reviewed and approved for publication by MCCLAIN, JR. and FERRONE, claimed that IMMUNYSON had the exclusive worldwide license to market, distribute and sell SF-1019 (the "Exclusive License"). See Exhibit B hereto.

92. CAMPBELL, after review and reasonable reliance upon the representations contained in IMMUNOSYN's website and the press release dated October 25, 2007, including the representation that IMMUNOSYN had the exclusive worldwide license to market, distribute and sell SF-1019, bought IMMUNOSYN stock during January 2008.

93. IMMUNOSYN, MCCLAIN, JR. and FERRONE knowingly misrepresented to potential purchasers of IMMUNOSYN stock, including CAMPBELL, that IMMUNOSYN held the Exclusive License as to SF-1019 to induce CAMPBELL and others to purchase stock in IMMUNOSYN.

94. IMMUNOSYN, MCCLAIN, JR. and FERRONE were each aware of the sale, or intended sale, of SF-1019 through commercial channels in contravention of IMMUNOSYN's Exclusive License at the time it was represented to CAMPBELL through IMMUNOSYN's website and press release that IMMUNOSYN would hold said Exclusive License.

95. The IMMUNOSYN stock purchased by CAMPBELL during January 2008 was ultimately sold for less than she paid.

96. IMMUNOSYN has reported no income from any source in its SEC filings from inception to date.

97. The known violation of the Exclusive License, IMMUNOSYN's only asset, and the loss of revenue from the sale of SF-1019 by others has negatively impacted IMMUNOSYN's stock price, to the detriment of CAMPBELL.

98. Further, if CAMPBELL had known that others could sell SF-1019 outside of IMMUNOSYN's Exclusive License, she would not have purchased IMMUNOSYN stock.

99. On July 16, 2008, IMMUNOSYN issued a press release on its website and elsewhere, as reviewed and approved for publication by MCCLAIN, JR. and FERRONE, stating, "Immunosyn Corporation announced today that the distribution of SF-1019 in the State of Utah is anticipated to begin shortly though Renewed Hope Clinic in Beaver, Utah." See Exhibit C hereto.

100. The press release concerning distribution of SF-1019 through Renewed Hope Clinic in Beaver, Utah was false when made and only made to promote SF-1019 and to sell IMMUNOSYN stock.

101. Dr. Mitchell Melling was associated with the Renewed Hope Clinic in Beaver, Utah.

102. IMMUNOSYN, MCCLAIN, JR. and FERRONE knew the press release of July 16, 2008 concerning distribution through Renewed Hope Clinic was false when made because, on July 9, 2008, Dr. Mitchell Melling and Doug McClain of Argyll Biotech went before the Utah Physician's Board to seek approval for a pharmacy license to sell/administer SF-1019 in Utah. See Exhibit D hereto.

103. During the July 9, 2008 meeting before the Utah Physician's Board, Dr. Melling acknowledged that he did not have information about the facility in Texas manufacturing SF-1019, that he understood that SF-1019 was not approved by the FDA, and that "he does not know if [SF-1019] is what it is suppose to be."

104. It was confirmed during the July 9, 2008 meeting before that Utah Physician's Board that there was no error in the prior administrative decision to not license Dr. Melling to sell SF-1019 in Utah.

105. On August 12, 2008, IMMUNOSYN issued a press release on its website and elsewhere, as reviewed and approved for publication by MCCLAIN, JR. and FERRONE, stating, "Immunosyn Corporation announced today that marketing, distribution and patient treatment approval has been granted by the Ministry of Health Malaysia for SF-1019 in the Private Pay Health Sector in Malaysia." See Exhibit E hereto.

106. IMMUNOSYN, MCCLAIN, JR. and FERRONE knew the press release of August 12, 2008 was false when made because IMMUNSOYN's SEC filings published after August 12, 2008 indicate that no approvals have been received in any country for the sale or distribution of SF-1019 at any time.

107. CAMPBELL reviewed the July 16, 2008 and August 12, 2008 press releases by IMMUNOSYN and reasonably relied upon the representations contained therein in purchasing IMMUNOSYN stock during October 2008 and February 2009.

108. CAMPBELL sold the stock purchased in October 2008 and February 2009 during May 2009 at a monetary loss.

109. CAMPBELL was induced to purchase IMMUNOSYN stock by the aforementioned press releases made by IMMUNOSYN, by and/or with the consent of IMMUNOSYN's officers, MCCLAIN, JR. and FERRONE, said press releases proving to be false and/or made with reckless disregard for the truth.

110. During the period of time that CAMPBELL was purchasing stock in IMMUNOSYN, starting in January 2008 and ending in February 2009, MICELI, MCCLAIN, JR., ARGYLL BIOTECH, and other offshore entities controlled by them, in whole or in part, were selling IMMUNOSYN corporation stock at great profit, based upon the false market value being maintained by the release of false and misleading press releases, three of said press releases being set forth *supra*.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial against the Defendants Immunosyn Corporation, Stephen Ferrone, and Douglas A. McClain, Jr., jointly and severally, for their violations of the Exchange Act and securities fraud, plus interest, costs and attorneys fees.

COUNT II – FRAUD

111. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 1-110 as if fully stated herein.

112. During April 2008, MORALES, through a telephone call between CAMPBELL and MORALES' agent, held himself out to CAMPBELL to be a medical doctor in the State of Texas, the location of his clinic. Further, though his agent, MORALES represented to CAMPBELL the success of SF-1019 by stating patients were getting out of wheel chairs and walking.

113. At all relevant times hereto, MORALES was not a licensed medical doctor in the State of Texas.

114. During April and May 2008, MORALES was practicing medicine in the State of Texas without a medical license in violation of Section 155.001 of the Texas Occupations Code.

115. In purchasing and receiving SF-1019 from MORALES, CAMPBELL reasonably believed that MORALES was a licensed medical doctor in the State of Texas and that he was treating patients as a licensed medical doctor with SF-1019.

116. CAMPBELL reasonably believed that MORALES was licensed to practice medicine in the State of Texas and she would not have purchased SF-1019 from MORALES if he did not hold himself out to be a medical doctor directly or through his clinic and agents.

117. CAMPBELL has been harmed by reasonably relying upon representations that MORALES was a medical doctor, that he was successfully treating patients with MS as a medical doctor and that she was being sold SF-1019 by a medical doctor.

118. CAMPBELL had suffered monetary damages from purchasing SF-1019 and unknown physical harm by taking an unapproved drug of unknown composition.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial against the Defendants Morales for fraud, plus interest, costs and attorneys fees.

COUNT III – RICO

119. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 1-118 as if fully stated herein.

120. Defendants MICELI, MCLAIN, JR., and MCCLAIN, SR. are engaged in a scheme or enterprise to defraud MS sufferers in desperate need for help by selling them a drug called SF-1019 at great cost and expense which has no FDA approval and is not being sold by licensed medical professionals as required by law.

121. Defendants MICELI, MCLAIN, JR., and MCCLAIN, SR. knew or should have known that it was illegal to sell and/or distribute SF-1019 through unlicensed medical doctors in the State of Texas and/or did so with reckless disregard for the law.

122. Defendants MICELI, MCLAIN, JR., and MCCLAIN, SR. knew or should have known that MORALES was not licensed to practice as a medical doctor in the State of Texas.

123. Defendants MICELI, MCCLAIN, SR. and MCCLAIN, JR. are also engaged in a scheme to sell SF-1019 for their own financial gain outside of the exclusive license held by the publically traded company they control, IMMUNOSYN.

124. Defendants MICELI, MCCLAIN, SR. and MCCLAIN, JR. are distributing SF-1019 and IMMUNOSYN stock certificates interstate through the US mail or other carriers.

125. Defendants MICELI, MCCLAIN, SR. and MCCLAIN, JR. are using email, websites and telephone communications to sell SF-1019 interstate.

126. MICELI, MCCLAIN, SR. and MCCLAIN, JR. operate as an enterprise through various entities as described *supra* and through their association and agreement to make money.

127. MICELI, MCCLAIN, SR. and MCCLAIN, JR. have engaged in a pattern of racketeering activity, to the detriment of others, including CAMPBELL.

128. MICELI, MCCLAIN, SR. and MCCLAIN, JR. have engaged in monetary transactions (including but not limited to the creation of IMMUNOSYN and ARGYLL BIOTECH) with money derived from unlawful activities and/or racketeering activity in prior enterprises.

129. There is a likelihood of continuing criminal activity by MICELI, MCCLAIN, JR. and MCLAIN, SR. See Exhibit F hereto.

130. As a result of the unlawful conduct and RICO violations committed by MICELI, MCCLAIN, SR. and MCCLAIN, JR., CAMPBELL has been damaged.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial against James Miceli, Douglas A. McClain Sr., and Douglas McClain, Jr. for their violations of RICO, plus interest, costs and attorneys fees.

COUNT IV – CONSPIRACY TO VIOLATE RICO

131. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 1-130 as if fully stated herein.

132. RICO prohibits any person from conspiring to violate RICO.

133. MICELI, MCCLAIN, SR., MCCLAIN, JR. had agreements and/or understandings with each other to engage in racketeering activities individual and through companies they would own and control.

134. MORALES had an agreement with MCCLAIN, SR. to sell SF-1019 for profit, without a license to sell said drug in the State of Texas, and in violation of Section 155.001 of the Texas Occupations Code.

135. MORALES sold SF-1019 for a profit in furtherance of the scheme or enterprise to defraud MS sufferers in desperate need for help by selling them a drug touted as the cure.

136. MCCLAIN, SR. has not filed federal tax returns since 2006.

137. MCCLAIN, SR. has held himself out to the owner of ARGYLL BIOTECH, its Chief Science Officer and/or its Director of Public Relations in his dealings with MORALES.

138. MCCLAIN, SR. has personally paid ARGYLL BIOTECH's financial obligations and received money from ARGYLL BIOTECH to pay his personal expenses, such that ARGYLL BIOTECH's funds and money have been comingled with those of MCCLAIN, SR.

139. MCCLAIN, SR. has received income from ARGYLL BIOTECH and neither MCCLAIN, SR. nor ARGYLL BIOTECH have reported the income to the IRS.

140. ARGYLL BIOTECH and ARGYLL EQUITIES of the alter egos of MICELI, MCCLAIN, SR. and MCCLAIN, JR.

141. MICELI, MCCLAIN, SR., MCCLAIN, JR., ARGYLL BIOTECH, ARGYLL EQUITIES, and FRANK MORALES have committed racketeering activities and/or acts in furtherance of racketeering activities.

142. CAMPBELL was harmed by the conspiracy to violate RICO and has suffered actual damages.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial against James Miceli, Douglas A. McClain Sr., Douglas McClain, Jr., Argyll Biotechnologies, LLC, Argyll Equities, LLC and Frank Morales for their violations of RICO, plus interest, costs and attorneys fees.

COUNT V – UNJUST ENRICHMENT

143. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 142 as if fully stated herein.

144. MORALES has been unjustly enriched by the sale of water/saline as SF-1019 to CAMPBELL.

145. MORALES has received money as a result of the sale of SF-1019 to CAMPBELL and has been unjustly enriched by the amount of money received and should be required to disgorge that amount.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial against the MORALES for unjust enrichment, plus interest, costs and attorneys fees.

COUNT VI - EXEMPLARY DAMAGES

146. Plaintiff hereby incorporate and restates herein the foregoing paragraphs 1-145 as if fully stated herein.

147. CAMPBELL seeks exemplary damages in connection with her claims of fraud in the largest amount allowable by law.

148. Further, the actions and conduct of Douglas McClain, Jr., Stephen Ferrone, James T. Miceli, Douglas A. McClain, Sr. and Frank Morales was committed knowingly and intentionally and violates Section 32.46 of the Texas Penal Code, insofar as the Defendants sold SF-1019 and Immunosyn Corporation stock by deception.

WHEREFORE, CAMPBELL prays for damages in amount to be proven at trial, including direct, consequential and mental pain and suffering, against Douglas McClain, Jr., Stephen Ferrone, James T. Miceli, Douglas A. McClain, Sr. and Frank Morales in accordance with Section 32.46 of the Texas Penal Code, plus interest, costs and attorneys fees.

Class Action Averments

149. The joinder of all members of the class of persons harmed by the aforementioned conduct is impractical.

150. The member class includes, potentially, all those individuals sold SF-1019 and all those individuals that purchased IMMUNOSYN stock. Given that there is over 270 million outstanding shares, the member class is likely large.

151. The claims are typical among the class because: 1) the batch of SF-1019 that was water/saline would likely have been distributed to more than just CAMPBELL, 2) the profits derived and not reported from the sale of SF-1019 would equally affect all stockholders, 3) the violation of the exclusive sale rights to IMMUNYSON of SF-1019 would equally affect all the stockholders, 4) the same information concealed from CAMPBELL, that would have been material to her purchase of SF-1019 and IMMUNOSYN stock would have been equally important to other class members, and 5) the misrepresentations in IMMUNOSYN's SEC filings and press releases impacted all investors in IMMUNOSYN and users of SF-1019.

152. The representative parties will fairly and adequately protect the interests of the class.

153. The claims have questions of law and fact common to the class that predominate over any questions affecting only individual class members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

154. The prosecution of separate actions by individual member of the class would create a risk of inconsistent results and/or be dispositive of the interests of the other members not parties to the adjudications.

155. All of the stockholders affected by a violation of the exclusive sale rights of IMMUNYSON and/or profits not reported to IMMUNYSON from the sale of SF-1019 are important common issues to the class that predominate over any questions affecting only individual class members.

156. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. The likelihood of individual class members prosecuting separate individual actions is remote due to the relatively small monetary loss suffered by each potential class member as compared to the burden and expense of prosecuting litigation of this nature and magnitude. Further, the potential class members are in many cases person suffering from MS that are on public assistance or otherwise financially incapable of financing separate lawsuits. Absent a class action, DEFENDANTS are likely to avoid liability for their wrongdoing, and class members are unlikely to obtain redress for their wrongs alleged herein.

Prayer for Class Certification and Relief

WHEFEFORE, the Plaintiff requests class certification pursuant to F.R.C.P. 23 and that judgment be entered in favor of the Plaintiff and the class as certified, and all such further relief granted as may be appropriate under the circumstances, including an award of costs and attorney fees.

Jury Demand

Plaintiff demands a trial by jury on all Counts so triable.

PLAINTIFF, DENISE CAMPBELL,
by her attorneys,

/s/ Andrew J. Tine
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RI State Bar No. 633639
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/s/ Gershon Cohen
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gershon.cohen@gmail.com

CERTIFICATE OF SERVICE

I, Andrew J. Tine, hereby certify that I filed the foregoing electronically this 30th day of September 2010 using the ECF system for the Southern District of Texas and that all counsel of record will receive electronic notice of said filing.

/s/Andrew J. Tine

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

PETER BRAMANTE, MICHAEL BRAMANTE, ERNEST COVINO, ROBERT KAMINSKI, ERNEST RAMEY, CHRISTOPHER BRAMANTE, AND DONNA M. BRAMANTE	§	
Plaintiffs,	§	**Civil Action No. SA-10-CA-0534-OLG**
v.	§	
DOUGLAS A. MCCLAIN, SR. AND PADMORE HOLDINGS, LTD.	§	
Defendants.	§	

INTERVENOR-PLAINTIFF'S REBUTTAL TO PLAINTIFF'S OPPOSITION TO THE NUNLEY FIRM, LLP'S MOTION TO INTERVENE

TO THE HONORABLE JUDGE ORLANDO GARCIA:

Intervenor-Plaintiff, THE NUNLEY FIRM, L.L.P., files this its Rebuttal to Plaintiff's Opposition to the Nunley Firm, LLP's Motion to Intervene and in support thereof shows as follows:

I.
FACTS IN SUPPORT OF REBUTTAL

As indicated in its Complaint in Intervention, The Nunley Firm entered into an agreement with James T. Miceli ("Miceli") and Douglas A. McClain, Jr. ("McClain, Jr.) whereby shares of stock of Immunosyn Corp. ("Immunosyn") ("Immunosyn Stock") were pledged to Nunley to secure payment of legal fees and expenses due Nunley as well as other creditors. *See* Exhibit "A" to The Nunley Firm, L.L.P.'s Motion to Intervene. The Immunosyn Stock pledged was stock owned by Miceli and McClain, Jr. individually as well as Immunosyn Stock owned by various entities (the "Argyll Entities") in which Miceli and McClain, Jr. were and are the majority shareholders, officers and/or directors. Immunosyn

Stock was also pledged *to secure Nunley's continued representation* of Miceli, McClain, Jr. and the Argyll Entities as well as Nunley's representation of same *in the future*.

Other creditors subsequently requested that the Immunosyn shares pledged to Nunley also be held by him as security and/or in trust for the payment of an agreed judgment entered in Cause No. 2007-68465. The agreed judgment was in favor of T. Paul Bulmahn ("Bulmahn"). The pledge in favor of Bulmahn was subsequently expanded to include an agreed judgment entered against Miceli and McClain, Jr., individually.

Pursuant to the terms of the pledge agreement, Miceli and McClain, Jr. have delivered and continue to deliver Immunosyn Stock owned by them individually as well as those owned by Argyll Entities. The first Immunosyn Stock was delivered to Nunley on or about August 23, 2007. The Immunosyn Stock owned by Padmore was physically delivered on January 22, 2008. The most recent delivery of stock took place on or about March 16, 2010.

Miceli and McClain, Jr., members of Padmore whose combined ownership interest therein is ninety percent (90%), have the exclusive authority to determine the interests of the beneficial owners of Padmore's Immunosyn Stock. *See*, Exhibit "A" to Plaintiffs' First Amended Complaint. Douglas A. McClain, Sr., Defendant herein, has neither possession nor control of the Immunosyn Stock pledged to Nunley nor has he ever had possession or control of said stock.

As indicated in Plaintiffs' Opposition to Motion to Intervene, Peter Bramante and Salvador Bramante, not parties to the instant litigation, filed suit in Cause No. 06-CA-0010 to enforce the judgment made the bases of the current litigation. Nunley undertook

representation of McClain, Jr., the son of Douglas A. McClain, Sr., and Padmore Holding, Ltd. - named Defendants therein (The "First Litigation"). Miceli and McClain, Jr., having the exclusive right to determine the beneficial ownership interests of the members in the Immunosyn Stock, agreed that 2,800,000 shares of Padmore's Immunosyn Stock would be held for the benefit of the plaintiffs therein until such time as the judgment held by the parties in the First Litigation was satisfied either by: 1) payment of the judgment by liquidation of the stock or 2) other means.

The First Litigation was resolved by confidential settlement. All terms and conditions thereto were satisfied including the payment of monies to plaintiffs on behalf of McClain, Jr. The sums due under the terms of the confidential settlement agreement were paid by Miceli, McClain, Jr. and/or the Argyll Entities and not by Douglas A. McClain, Sr. When the terms and conditions of the confidential settlement agreement were fulfilled, all claims to the 2,800,000 shares of Immunosyn held by Nunley and in the name of Padmore were satisfied and extinguished.

In keeping with the pledge agreement entered into between Nunley, Miceli and McClain, Jr. in 2006, Nunley continues to hold the Immunosyn Stock issued to Padmore (and others) as security for fees and expenses incurred and outstanding as well as security for fees and expenses incurred by the individuals and/or Argyll Entities in ongoing and future legal representation, as well as T. Paul Bulmahn and other creditors.

To date, Miceli, McClain, Jr. and/or the Argyll Entities are indebted to Nunley in the amount of $1,173,611.95, and continuing. Mr. Bulmahn's judgments total an approximate amount of $69,000,000.00. Nunley continues to represent Miceli, McClain, Jr. and some Argyll Entities in pending matters including, but not limited to, Cause No. B-09-197; *Denise*

Campbell, et. al. v. Immunosyn Corp, et al; In the United States District Court for the Southern District of Texas - Brownsville Division - litigation in which counsel for Plaintiffs in the current litigation also represents the named Plaintiff therein. But, more importantly, Nunley continues to hold the stock for T. Paul Bulmahn and other creditors.

II.
ARGUMENT AND AUTHORITIES

A. Douglas A. McClain, Sr. does not have possession nor control over the Immunosyn Stock that would authorize an order of turnover.

As indicated *infra*, Miceli and McClain, Jr. have the exclusive authority to determine the interests of the beneficial owners in the Immunosyn shares owned by Padmore. They have held this exclusive authority since no later than January 3, 2007, the date of the SEC 13D filing. See, Exhibit "A" to Plaintiffs' First Amended Complaint. Douglas A. McClain, Sr. does not have, nor has he ever had, possession or control over the Immunosyn shares owned by Padmore. Miceli and McClain, Jr. agreed to utilize Immunosyn Stock Certificate No. 1727, issued to Padmore, as security for the payment of monies due under the confidential settlement agreement reached in the First Litigation. Once those sums were paid, the claims of the plaintiffs in the First Litigation to that specific stock certificate were extinguished and the Immunosyn Stock became part of the shares pledged to Nunley under the original pledge agreement of 2006.

B. Nunley and Bulmahn have a valid security interest in the Immunosyn stock.

A pledge is a deposit or delivery of possession and control of property vesting a right to the property in the pledgee to the full extent necessary to protect and collect the debt.

First National Bank in Grand Prairie v. H. Hentz & Co., Inc., 498 S.W.2d 478 (Tex. Civ. App.).

A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral [...]. A security agreement is enforceable against the debtor and third parties when 1) value has been given; 2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and 3) the security is in the possession of the secured party. TEX. BUS. & COM. CODE §9.203(a) and (b); CAL. COM. CODE 9203. For purposes of Section 9.203 of the Texas Business, a security interest in a certificated security occurs when it has been delivered to the secured party. A security interest attaches in an uncertificated security when the collateral is in the "possession" of the secured party. For purposes of fulfilling the requirements of attachment of an uncertificated security, delivery occurs when the issuer registers the purchaser as the registered owner. TEX. BUS. & COM. CODE §8.301(b)(1). Manual delivery, even where the pledge consists of corporeal personal property such as stock, is not necessarily required, but in many such cases a constructive or symbolic delivery of such property has been held sufficient. *Central National Bank v. Latham & Co.*, 22 S.W.2d 765, 768 (Tex. Civ. App. – Waco 1929, no writ).

Nunley and Bulmahn's security interest in the Immunosyn stock attached when Padmore became the registered owner of the uncertificated stock as further manifested by physical delivery of the Immunosyn stock both to Padmore through Miceli and McClain, Jr. And then delivery to Nunley.

C. The Immunosyn Stock is subject to a Trust Agreement for the benefit of Nunley and Bulmahn.

It is abundantly clear that a Trust was created by Miceli and/or McClain, Jr. The beneficiaries of the trust are indisputably Nunley and Bulmahn. The McClain family members and Argyll Entities that own the shares of Immunosyn Stock are contingent beneficiaries. That is, the McClain family members and Argyll Entities would only receive their shares of stock if and only if the debt owed to Nunley and Bulmahn were satisfied in full. A trust in either real or personal property is enforceable only if there is written evidence of the trust's terms bearing the signature of the settlor or the settlor's authorized agent. TEX. PROP. CODE §112.004. However, parol evidence is admissible to establish an express parol trust. *Gause v. Gause*, 430 S.W. 2d 409, 415,-416 (Tex. Civ. App. – Austin, 1968, no writ). The test to establish whether a verbal trust has been shown is by proof that is reasonable clear and certain. *Eaton v. Husted*, 172 S.W.2d 493 (Tex. 1943); *Gause v. Gause*, 430 S.W. 2d 409, 415, 416 (Tex. Civ. App. Austin, 1968, no writ); *Powell v. Jackson*, 320 S.W.2d 20 (Tex. Civ. App - Amarillo, 1958, writ ref'd n.r.e.).

The trust at issue protects the creditors. Miceli, McClain, Jr. and/or the Argyll Entities provided that the interest of the contingent beneficiaries; to-wit, members of the McClain family and the Argyll Entities could not be voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiaries (Nunley and Bulmahn) by the trustee. TEX. PROP. CODE §112.035.

The evidence that a spendthrift trust was created in favor of Nunley and Bulmahn is reasonably clear and certain. Bulmahn did not abstract either his judgment against either Argyll Equities, Miceli and McClain, Jr. at the time the judgments were rendered. He

did so in reliance upon the verbal trust agreement between Miceli, McClain, Jr. and the Argyll Entities. Subsequent to the trust agreement, Miceli, McClain, Jr., the Argyll Entities and Nunley continued to apprise Bulmahn of the status of Immunosyn Corporation and the Immunosyn Stock. Subsequent to creation of the trust, Immunosyn Stock was delivered to Nunley as trustee.

III
SUMMARY

It is abundantly clear that the security interest of Nunley and Bulmahn attached as early as January 3, 2007 - the time at which Padmore filed its SEC 13D with the Securities and Exchange Commission. At the same time that Nunley and Bulmahn acquired their security interest in the stock, the owners of the stock created an irrevocable trust the corpus of which includes the very Immunosyn Stock for which Plaintiff seeks a turnover order.

The Immunosyn Stock held by Nunley is not subject to a turnover order.

PRAYER

WHEREFORE, Intervenor-Plaintiff, THE NUNLEY FIRM, LLP, respectfully requests that:

1. The Nunley Firm's Motion to Intervene be GRANTED;
2. All relief requested in the Complaint of Plaintiffs, PETER BRAMANTE, MICHAEL BRAMANTE, ERNEST COVINO, ROBERT KAMINSKI, ERNEST RAMEY, CHRISTOPHER BRAMANTE, and DONNA M. BRAMANTE be DENIED;

3. Plaintiffs' Motion for An Attachment, Preliminary Injunction and/or Turnover Order be DENIED;

4. And such other relief, both at law and equity as Intervenor may show itself justly entitled.

Respectfully submitted,

THE NUNLEY FIRM, LLP
1580 South Main Street, Suite 200
Boerne, Texas 78006
Telephone: 830-816-3334
Facsimile: 830-816-3388

By: \s\ J. Ken Nunley
J. KEN NUNLEY
State Bar No. 15135600

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of August,2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing as appropriate.

Gershon D. Cohen
Counsel for Plaintiffs
State Bar No. 04508325
1250 N.E. Loop 410, Suite 234
San Antonio, Texas 78217

Douglas A. McClain, Sr.
234 West Bandera, #122
Boerne, Texas 78006

\s\ J. Ken Nunley
J. Ken Nunley

EXHIBIT B

IMMUNOSYN CORPORATION

IMMUNOSYN CORPORATION SIGNS EXPANDED LICENSE AGREEMENT

October 25, 2007

La Jolla, CA ... PR Newswire... Immunosyn Corporation (IMYN.OTC.BB) announced that on October 25, 2007 it entered into an Amended and Restated License Agreement with its largest shareholder, Argyll Biotechnologies, LLC, to market, sell and distribute the biopharmaceutical SF-1019.

The amended license agreement expands the grant of rights to Immunosyn to include the exclusive worldwide right to market, sell, distribute and promote SF-1019 in its current form for multiple uses including the treatment of any and all diseases and pathological conditions (not just Chronic Inflammatory Demyelinating Polyneuropathy (CIDP), Diabetic Neuropathy (DN) and diabetic ulcers (DU)). Immunosyn is further granted the rights to any improvement of SF-1019 and other compounds, which are developed under the same technology platform and which are chemically similar to SF-1019. In conjunction, Immunosyn also obtained an exclusive, worldwide license to all intellectual property owned by or assigned to Argyll Biotechnologies, LLC for the purpose of marketing, distribution, sale and promotion of SF-1019. Immunosyn continues to have the right of first offer to enter into additional license agreements for uses of other compounds that are developed and which are not already covered under the amended license agreement.

"Immunosyn is excited about entering into this amended license agreement with Argyll Biotechnologies, LLC. Our expanded grant of rights provides us with more flexibility and opportunities as the possibilities of this promising biopharmaceutical unfold," noted Stephen Ferrone, Immunosyn's CFO.

About Immunosyn Corporation

La Jolla, CA-headquartered Immunosyn Corporation (IMYN.OTC.BB) plans to market and distribute life enhancing therapeutics. Currently, the company has exclusive worldwide rights from its largest shareholder, Argyll Biotechnologies, LLC, to market, sell and distribute SF-1019, a compound that was developed from extensive research into Biological Response Modifiers (BRMs). Argyll Biotechnologies, LLC has initiated the process for regulatory approval of SF-1019 in several countries and preparations for clinical trials are underway in both the US and Europe. Research suggests that SF-1019 has the potential to affect a number of clinical conditions including complications from Diabetic Mellitus such as Diabetic Neuropathy (DN) and diabetic ulcers (DU), auto-immune disorders such as Multiple Sclerosis (MS) and neurological disorders such as Chronic Inflammatory Demyelinating Polyneuropathy (CIDP) and Reflex Sympathetic Dystrophy Syndrome (RSD or RSDS). (For more information on Immunosyn and SF-1019 go to www.immunosyn.com)

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The above news release contains forward-looking statements. These statements are based on assumptions that management believes are reasonable based on currently available information, and include statements regarding the intent, belief or current expectations of the Company and its management. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance, and are subject to a wide range of business risks, external factors and uncertainties. Actual results may differ materially from those indicated by such forward-looking statements. For additional information, please consult the Company's most recent public filings and Annual Report on Form 10-K for its most recent fiscal year. The Company assumes no obligation to update the information contained in this press release, whether as a result of new information, future events or otherwise.

EXHIBIT C

Immunosyn Announces Proposed Agreements for Distribution of the Biopharmaceutical SF-1019 in Utah

Wednesday 16th of July 2008 9:00

BioPortfolio no longer holds the full text of this article. Follow the above links to seek an online version.

LA JOLLA, Calif., July 16 /PRNewswire-FirstCall/ -- Immunosyn Corporation (OTC Bulletin Board: IMYN) announced today that the distribution of SF-1019 in the State of Utah is anticipated to begin shortly through Renewed Hope Clinic in Beaver, Utah.

Immunosyn is negotiating an exclusive license agreement for the administration and distribution of SF-1019 in the State of Utah with Utah Biopharmaceutical Laboratories, LLC.

Immunosyn has been advised by Argyll Biotechnologics, LLC, the licensor of SF-1019, Immunosyn's strategic partner and its largest shareholder, that Argyll Biotech is negotiating a three-party agreement with its current domestic third party manufacturer and Utah Biopharmaceutical Laboratories for Utah Biopharmaceuticals Laboratories to be a third party manufacturer of SF-1019 in the State of Utah. Argyll Biotech has worked for several years on developing the manufacturing processes, protocols, safety procedures and guidelines for SF-1019. Immunosyn, together with Argyll Biotech and Utah Biopharmaceutical Laboratories, is working to finalize Distribution Management and Information Component Systems that will be implemented to define protocols to assure patient safety and regulatory compliance in Utah prior to treatment commencing.

The combination of the proposed license and manufacturing agreements will allow for SF-1019 to be administered in the State of Utah exclusively by Utah Biopharmaceutical Laboratories through Renewed Hope Clinic which is located in Beaver, Utah.

"I am excited to have the ability to treat patients with this therapeutic modality, which is not yet available elsewhere in the U.S. My review of the scientific background, preclinical testing, initial safety evaluations and studies performed under compassionate waivers, coupled with the therapeutic benefits I have witnessed, give me confidence in the benefit my patients will receive from SF-1019 treatment," said Mitchell J. Melling, MD, Manager of Utah Biopharmaceutical Laboratories, LLC.

Stephen D. Ferrone, President and CEO of Immunosyn, stated, "Utah Biopharmaceutical Laboratories sought the ability to distribute SF-1019 in the State of Utah as a result of the compelling desire of patients who are seeking this treatment after their having failed conventional, FDA approved therapy. This patient demand stemmed from the perceived benefit of treatment in patients who participated in early preclinical studies and

who desire ongoing access to SF-1019 to alleviate their symptoms."

Ferrone added, "Argyll Biotech advises us that they plan to continue the process to obtain full regulatory approvals for the marketing of SF-1019 in both Europe and the U.S."

"This is an exciting early-stage development as this puts revenue producing capabilities within short-term range for the company," stated Douglas A. McClain, Jr., Chairman of the Board and CFO of Immunosyn.

About Utah Biopharmaceutical Laboratories, LLC

Utah Biopharmaceutical Laboratories was organized for the purpose of manufacturing SF-1019 for administering and distributing by United Biopharmaceutical Laboratories through the Renewed Hope Clinic under the direction of Mitchell J. Melling, MD in the State of Utah.

About Renewed Hope Clinic

Located in Beaver, Utah at 95 North 400 East, Renewed Hope Clinic is managed by Mitchell Melling, MD who is Board Certified in Family Practice in the State of Utah. Renewed Hope Clinic is a family practice center, emphasizing treatment of autoimmune and infectious diseases.

About Immunosyn Corporation

La Jolla, CA-headquartered Immunosyn Corporation (OTC Bulletin Board: IMYN) plans to market and distribute life enhancing therapeutics. Currently, the company has exclusive worldwide rights from its largest shareholder, Argyll Biotechnologies, LLC, to market, sell and distribute SF-1019, a compound that was developed from extensive research into Biological Response Modifiers (BRMs). Argyll Biotechnologies, LLC has initiated the process for regulatory approval of SF-1019 in several countries and preparations for clinical trials are underway in both the U.S. and Europe. Research suggests that SF-1019 has the potential to affect a number of clinical conditions including complications from Diabetic Mellitus such as Diabetic Neuropathy (DN) and diabetic ulcers (DU), auto-immune disorders such as Multiple Sclerosis (MS) and neurological disorders such as Chronic Inflammatory Demyelinating Polyneuropathy (CIDP) and Reflex Sympathetic Dystrophy Syndrome (RSD or RSDS). (For more information on Immunosyn and SF-1019 go to http://www.immunosyn.com).

The above news release contains forward-looking statements. These statements are based on assumptions that management believes are reasonable based on currently available information, and include statements regarding the intent, belief or current expectations of the Company and its management. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance, and are subject to a wide range of business risks, external factors and uncertainties. Actual results may differ materially from those indicated by such forward-looking statements. For additional information, please consult the Company's most recent public filings and Annual Report on Form 10-K for its most recent fiscal year. The Company assumes no obligation to update the information contained in this press release, whether as a result of new information, future events or otherwise.

SOURCE Immunosyn Corporation

Via PR Newswire - PRNewswire.co.uk

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EXHIBIT D

MINUTES

UTAH
PHYSICIAN'S
BOARD MEETING

July 9, 2008

Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 9:13 A.M.

ADJOURNED: 2:15 P.M.

Bureau Manager: Noel Taxin
Board Secretary: Karen McCall
Division Compliance Specialist: Debbie Harry

Board Members Present:
Marc E. Babitz, MD, Board Chairperson
James R. Fowler, MD
John W. Bennion, Ph.D.
Kristen Ries, MD
Richard J. Sperry, MD
Lori G. Buhler
George C. Pingree, MD
Stephen E. Lamb, MD
James H. Pingree, MD
Elizabeth F. Howell, MD

Board Members Absent: Vacant Position

Guests:
Larry Keller
Doug McClain, Argyll Biotech

DOPL Staff Present:
David Stanley, Division Director
Diane Hooper, Licensing Specialist
Kent Barnes, Sr. Business Analyst
Ronda Trujillo, Compliance Specialist

TOPICS FOR DISCUSSION | **DECISIONS AND RECOMMENDATIONS**

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the June 4, 2008 Board meeting were read.

Dr. George Pingree made a motion to approve the

minutes with minor revisions. Dr. Howell seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

9:45 am
Debbie Harry , Compliance Update

Ms. Harry updated the Board regarding the compliance or non-compliance of probationers.

Ms. Harry reported that **Dr. David L. Aune** is currently in compliance.

Ms. Taxin reminded the Board that Dr. Aune's Order should be amended and reflect in the minutes that he has completed the aftercare requirement.

The Board acknowledged that Dr. Aune has successfully completed the aftercare requirement.

Ms. Harry reported that **Dr. William R. Gulledge** is currently out of compliance as his information from Texas has not been received.

Ms. Taxin stated that one report from Texas was received but the report due for this meeting has not been received.

Ms. Harry reported that **Dr. Jason Church** will be in compliance if he brings in copies of his Controlled Substance prescriptions.

Ms. Harry reported that **Dr. Randall N. Ellsworth** is currently out of compliance as he has not submitted the PIR information, the 12-step attendance cards or the therapy report. She stated that he also has missed calling twice for his drug tests. Ms. Harry stated that the supervisor report was received but the employer report has not been received since October 2007.

Ms. Harry reported that **Dr. Brandon G. Bentz** is currently in compliance. She stated that Dr. Bentz's therapist recommended his therapy be terminated and would support reduction in Dr. Bentz probation period. She stated that Dr. Bentz has had problems with insurance companies dropping him off their lists.

Ms. Taxin stated that Dr. Bentz could meet again in September 2008 for the Board to consider termination of probation.

Dr. Babitz commented that Dr. Bentz has reported that the insurance carriers have not dropped him.

Ms. Harry responded that it might be the Veterans Administration that has dropped him.

The Board suggested they wait until after Dr. Bentz's appointment to make any recommendation regarding his probation.

Ms. Harry reported that **Dr. Michael Goates** is currently out of compliance as 18 out of 19 drug tests have been positive with several high levels. She stated that he is in compliance with his reports and paperwork.

Ms. Taxin commented that the Board could ask if he is drinking and listen to his response. She stated that she reminded the Board that she talked with Dr. Goates in a previous meeting and recommended that he stop using his mouthwash or get an alcohol free alternative and speak to his Dentist if that is what he needs to do to have negative drug tests. She stated that Dr. Goates has reported to his therapist that he not drinking.

Dr. Howell asked if there would be a different Order if there is a Hearing or if Dr. Goates would be held to the current Order. She stated that there have been times when the Board has requested more of the probationers than is required in their original Stipulation and Order.

Ms. Taxin responded that in a Hearing the Board listens to the facts and then makes recommendations such as revocation or making a change to the current Stipulation and Order. She recommended the Board think about the clauses they have reviewed in Stipulations and Orders when they are making recommendations after a Hearing.

Ms. Buhler asked if Dr. Goates was required to refrain from drinking alcohol in his current Order.

Ms. Harry responded that the current Order requires Dr. Goates to abstain from use or possession of alcohol, any mood altering substances, controlled substances or Rx drugs unless prescribed by a Physician for a real, current illness and must be taken correctly. She stated that a copy of all prescriptions is to be submitted to the Division.

Ms. Harry reported that **Dr. Stanton A. Bailey** is currently in compliance with his Stipulation and Order. She stated that he has had negative drug tests with one diluted test in 2004, has never missed a drug test and has consistently submitted all required paperwork. She stated that Dr. Bailey has continued to attend PIR and AA meetings. Ms. Harry stated that Dr. Bailey has submitted a request for early termination of his probation. She stated that July 20, 2009 is the date that Dr. Bailey's probation is scheduled to terminate.

Dr. James Pingree made a motion for Dr. Bailey to have another psychological evaluation and have the Psychologist submit a copy of the evaluation with a recommendation for the Board to consider early termination of probation. Dr. Howell seconded the motion. The Board vote was unanimous.

The Board recommended Dr. Bailey return to Dr. Crookston for the second evaluation.

10:00 am
Dr. Walter E. Brodis, Reinstatement of License Discussion

Dr. Brodis and his wife, Donna Brodis, met with the Board to discuss reinstating his license.

Board members and Division staff were introduced.

Dr. Bennion made a motion to close the meeting for the discussion as personal private information will be discussed. Dr. James Pingree seconded the motion. The Board vote was unanimous.

Dr. Sperry made a motion to reopen the meeting.

Dr. Howell seconded the motion. The Board vote was unanimous.

Dr. Howell made a motion for Dr. Brodis to submit documentation of completing the following when he submits his application for reinstatement of his license:

1. **Complete a training/residency program to update his skills.**
2. **Take and pass the SPEX examination.**
3. **Request Dr. Bushnell to write a letter regarding the issues Dr. Brodis is currently working on and make a recommendation regarding if Dr. Brodis is safe to practice.**
4. **Complete a neuropsychiatric test and submit a report that also identifies any problems or concerns.**
5. **Complete 40 hours of current CE.**
6. **Meet again with the Board after above has been completed and submitted.**

Dr. Sperry seconded the motion. The Board vote was unanimous.

10:30 am
Dr. David Aune, Probationary Interview

Dr. Aune met for his probationary interview

Ms. Buhler conducted the interview.

Ms. Buhler informed Dr. Aune that he is in compliance with his Stipulation and Order. She asked Dr. Aune to briefly update the Board regarding what he is doing.

Dr. Aune responded that he is enjoying his work and has taken up the hobby of remote control helicopters.

Ms. Buhler stated that the Board acknowledges that information has been received from Dr. Crookston regarding Dr. Aune successfully completing his therapy program. She stated that the report documents that Dr. Aune is doing well. Ms. Buhler asked if he is attending PIR groups and AA meetings.

Dr. Aune responded that he has been doing the 12 step

program through the LDS church.

The Board discussed moving Dr. Aune's appointment to twice a year with reports being due quarterly.

Ms. Buhler asked if Dr. Aune attended the University of Utah (U of U) week long drug school.

Dr. Aune responded that he did attend the U of U drug school.

Following additional discussion, Ms. Buhler made a motion to move Dr. Aune's appointments from quarterly to twice a year with reports to continue to be submitted quarterly and the prescription triplicates to be submitted quarterly.

Dr. George Pingree seconded the motion.

The Board vote was unanimous.

An appointment was made for Dr. Aune to meet again in January 2009.

10:45 am
Dr. William Gulledge, Telephonic Probationary Interview

Dr. Gulledge met for his telephonic probationary interview.

Dr. Ries conducted the interview.

Dr. Ries informed Dr. Gulledge that a letter was received right after his last appointment with the Board but one has not yet been received for this quarter. She asked if he has contacted the Texas Board regarding submitting a letter for this quarter.

Dr. Gulledge responded that he has requested the Texas Board to send the letters quarterly and thought they would send them automatically. He stated he will contact them again. Dr. Gulledge commented that he has finished all his requirements. He stated that his probation in Texas was for a 1 year period and that ended about 2 weeks ago. He asked if Utah was going to release him from the Utah probation today.

Ms. Taxin recommended Dr. Gulledge follow-up with Debbie Harry. She stated that for the Board to recommend termination of probation Dr. Gulledge would need to submit the following:

1. **Documentation from Texas regarding successfully completing his probation and being terminated there.**
2. **A letter from him requesting early termination of the Utah probation.**
3. **Documentation of completing the CME course.**
4. **A letter from his therapist regarding the issues he has worked on, that a support system is in place and a recommendation supporting early termination of probation.**

Dr. Gulledge interjected that he was not required by Texas to be in therapy.

Dr. Babitz asked if Dr. Gulledge had therapy in Texas.

Dr. Gulledge responded that he did.

Dr. Babitz, Dr. Ries and Ms. Taxin stated that it would be helpful for the Board when they consider termination of the Utah probation if he would have the therapist submit a letter.

The Board determined Dr. Gulledge is out of compliance with his Stipulation and Order until the paperwork is received.

An appointment was made for Dr. Gulledge to meet again September 10, 2008.

11:00 am
Dr. Jason Church, Probationary Interview

Dr. Church met for his probationary interview.

Dr. Howell conducted the interview.

Dr. Howell stated that Dr. Church's file is missing his copies of prescribed controlled substances (CS).

Dr. Church submitted the copies for the Board to

review. He stated that he also found the January through April CS copies.

Dr. Howell informed Dr. Church that he is now in compliance with his Stipulation and Order for this quarter. She asked Dr. Church to update the Board regarding his work.

Dr. Church responded that he moved to Pleasant View, near Ogden. He stated that his pediatrics practice has grown extremely fast. He stated that it was somewhat stressful to sell their home and move but feels that he has turned another corner in his recovery. Dr. Church stated that he listened to the prior probationer appointment and recalls being where that person is. He stated that he believed at one time that some of the requirements were not helpful to him and found reasons not to attend the recovery meetings. Dr. Church stated that the 12 step program is a critical component to recovery and there was something there for him to learn by attending and by attending the AA meetings. He stated that a person can have a positive or negative slant on attending the meetings. He stated that May 25, 2005 he went into recovery and never imagined at that time that he would be where he is today. He stated that at that time he believed his career was over and he lost a fellowship. He stated that he never thought he would be a pediatrician and he is so much happier in what he is now doing. Dr. Church stated that he is now in the process of becoming Board Certified.

Dr. Bennion asked Dr. Church how long he attended recovery meetings before they started to be worthwhile to him.

Dr. Church responded that it was about 6 months to a year. He stated that most of the people he knows who believe they get nothing out of the meetings are just attending to fill a requirement and are usually not working the 12 steps. He stated that a person has to be willing to take a chance to work the 12 steps. Dr. Church stated that the meetings are designed around how a person is living the 12 steps in their life. He stated that people differ spiritually but can still work the 12 steps successfully.

Dr. Howell commented that it appears Dr. Church is feeling good in his recovery program. She stated that recovery has a lot to do with the patient's willingness to recover, accept and settle into the program. She stated that the Board has received positive reports. Dr. Howell asked Dr. Church if he craves the drugs when he writes prescriptions.

Dr. Church responded that relapse for him now is recognizing when he is feeling stressed and more wrapped up in himself and then removing himself from those things until he no longer even thinks of using drugs.

Dr. Church stated that he talked with Diana Baker and Ms. Taxin regarding requesting early termination from probation. He stated that he brought a letter from himself and will submit one from Dr. Allred when he returns to town.

Dr. Howell reviewed Dr. Church's file and noted that the Board decreased the frequency of meeting from quarterly to every 6 months at his last appointment. She asked Dr. Church when he was thinking he would like to have the probation terminated.

Dr. Church responded that Ms. Baker has said he should be at least ½ through the probation before requesting early termination. He stated that he is now at that half way mark and ready for termination. He stated that he has gleaned a real sense of gratitude and knows he will always participate in some form in the 12 step program, in the LDS program and in drug screening. He stated that the drug tests protect him from litigation and he would like a paper trail to show he has been sober. He stated that recovery has hills and valley and that the drug testing accountability helps him. Dr. Church stated that he believes he now has a strong support system in place.

Dr. Howell commented that Dr. Church's probation started January 24, 2006 for 5 years to January 24, 2011.

Dr. Babitz recommended Dr. Church submit the following for review at the January 2009 Board meeting:

1. **Submit a letter of request.**
2. **Submit letter of recommendation from the people who have treated him in 12 step, DayBreak, Bob Stevens in aftercare. He requested the letters address the progress Dr. Church has made.**

Dr. Church responded that he will get the information for the Board to review. He stated that his Ohio probation goes through 2011. Dr. Church stated that his attorney has informed him that if Utah releases him early then Ohio may also consider early termination of the probation. He stated that the Ohio Board is less supporting and less encouraging than the Utah Board.

Ms. Harry reminded Dr. Church that his paperwork is still required quarterly.

Dr. Church asked if there is any reason that he would not be allowed to supervise a Physician Assistant at this time.

Ms. Taxin responded that the only restrictions on his license are outlined in his Stipulation and Order. She explained that he could only supervise 2 fulltime Physician Assistants.

The Board determined Dr. Church is in compliance with his Stipulation and Order.

An appointment was made for Dr. Church to meet again in January 2009.

11:15 am
Dr. Randal Ellsworth, Probationary Interview

Dr. Ellsworth met for his probationary interview.

Dr. Bennion conducted the interview.

Dr. Ellsworth informed the Board that he is at the Zion Center in St. George and works less than ½ time due his overall health. He stated that he no longer does surgery that may require long night hours. Dr.

Ellsworth stated that the Board should have received a letter from Dr. Cohen. He commented that it feels good to do something useful after all his years of education. He informed the Board that his health condition is the same and, as long as he stays within his limits, he does ok.

Dr. Bennion informed Dr. Ellsworth that the latest PIR and 12 step attendance cards have not been received.

Dr. Ellsworth submitted the cards. He stated that he met with Dr. Buckner, the Psychologist, yesterday and Dr. Buckner will submit a report.

Ms. Taxin commented that after the report has been received the Board may have some feedback for Dr. Ellsworth as Dr. Buckner is his therapist.

Dr. Ellsworth stated that Dr. Buckner has not worked with DOPL before and is looking for some guidance.

Ms. Taxin suggested Dr. Ellsworth have Dr. Buckner call her and she will review the expectations of the Division and the Board.

Dr. Bennion stated that Dr. Ellsworth did not call in for his drug testing on 2 days and missed a test one of those days. He asked Dr. Ellsworth to explain.

Dr. Ellsworth explained that he called and was tested today. He asked if he missed a test on Monday and what a missed test means.

Ms. Harry responded that he did miss a test on Monday and it means that his tests will be increased for two months. She stated that it is very important that he call in daily.

Ms. Taxin asked if there was a reason he failed to call.

Dr. Ellsworth responded that he forgot to call.

Dr. Babitz reminded Dr. Ellsworth that failing to

call is considered a positive test.

Dr. Ellsworth responded he did not call when he went to Guatemala. He stated that he tried to get a hair test when he went to Germany and was informed that they could not do the hair test for about a week. He stated that he tried to explain that waiting a week would be too late but they would not accommodate him. He asked if he could do a hair test to make up missing the test on Monday.

Ms. Harry explained that Dr. Ellsworth was not required to do a hair test but was required to complete a regular test. Ms. Harry stated that he tested today and could not do a hair test for a make up test.

Dr. Bennion informed the Board that Dr. Ellsworth has paid the required fine. He then commented that Dr. Ellsworth voiced at the last meeting that he was not getting much out of attending the PIR meetings. He asked Dr. Ellsworth if he was of the same opinion today.

Dr. Ellsworth responded that he does not care for the rah, rah or the horror stories in the group meetings. He stated that the Provo group is smaller and a little better so he attends some meetings there. Dr. Ellsworth stated that he also attends an AA meeting in St. George. He stated that he is not an addict and he learned what he could while at Cirque Lodge for 30 days. He stated that he worked out some of the emotional issues he was having and did cross some boundaries which he handled wrong.

Dr. Howell responded that taking medications from others, splitting pills and operating under the influence is an addiction. She stated that the charges were pretty bad and he agreed with the Finding of Facts and signed the Stipulation and Order.

Dr. Ellsworth commented that he did not operate while under the influence. He stated that Soma makes him slur his speech but he did not do any surgery while taking Soma.

Dr. Howell voiced concern that Dr. Ellsworth does not like attending AA meetings, he does not like the PIR meetings but he agreed to attend the meetings as part of his Stipulation and Order. She asked him what he would like to do.

Dr. Ellsworth responded that he likes talking with Dr. Buckner. He stated that Dr. Buckner has identified some emotional problems and is helping him deal with them. He stated that he knows he did not do everything right but he does not find the principles of AA or PIR useful to him.

Dr. Howell asked if Dr. Ellsworth has tried the LDS 12 step program.

Dr. Ellsworth responded that he has and did not like attending there either. He stated that he read some scriptures and learned some things but he likes to read and study privately. He stated that he is attending AA meetings but they are not productive for him.

Dr. Howell stated that she believes the support groups are more productive to addicts. She stated that it will be challenging for him and if he does not like the AA groups then maybe attending the 12 step programs as there has to be at least 1 meeting type that is more tolerable for him.

Ms. Taxin commented that it is sad that he attends these meetings and they are a waste of time for him. She stated that the requirement is suppose to be a benefit for him. Ms. Taxin suggested Dr. Ellsworth ask his therapist if he knows of a program that would be more beneficial or a better fit and then let her know what the program is. She also suggested Dr. Ellsworth request his therapist to address the issue in therapy and in his next report.

The Board determined Dr. Ellsworth is out of compliance with his Stipulation and Order.

An appointment was made for Dr. Ellsworth to meet again on October 8, 2008.

11:30 am

Dr. Brandon Bentz. Probationary Interview

Dr. Bentz met for his probationary interview.

Dr. James Pingree conducted the interview.

Dr. Bentz asked the Board if he could be released from therapy. He stated that he could always return to the therapist if necessary but that both the therapist and he believe he has gained the benefit to date and termination is appropriate. Dr. Bentz stated that his therapist is a person that he can talk openly with regarding any issues.

Dr. James Pingree responded that his request would be addressed later in the meeting. He stated that Dr. Bentz in compliance with his Stipulation and Order. He asked Dr. Bentz to update the Board.

Dr. Bentz responded that he has received funding to continue his research and will be up for tenure in October. He stated that he has taken this opportunity and experience to enrich his professional achievements and to work on his personal life. He stated that this has been an enriching experience but a blemish that he will carry for the rest of his career. Dr. Bentz stated that he has taken responsibility for his action and hopes to be able to put this behind him at some point in time. He then asked the Board if they would consider early termination of his probation.

Dr. James Pingree responded that Dr. Bentz probation is scheduled to be completed in August 2009. Dr. James Pingree stated that Dr. Bentz may formally request early termination in August and the Board will consider the request at that time.

Dr. Howell made a motion to terminate the therapy requirement. Dr. James Pingree seconded the motion. Dr. Howell, Dr. Fowler, Dr. Bennion, Dr. Ries, Dr. Sperry, Ms. Buhler, Dr. George Pingree, Dr. James Pingree and Dr. Howell vote in favor of the motion. Dr. Lamb abstained from voting. The motion passed with a majority vote.

Dr. Babitz asked Dr. Bentz to address the required chaperone issue, specifically anything that relates to his violation.

Dr. Bentz responded that he has a separate Stipulation with the University regarding the chaperone. He stated that he is in compliance with the University stipulation and the chaperone report should have been received.

Dr. Babitz confirmed that the report was received.

The Board determined Dr. Bentz is in compliance with his Stipulation and Order.

An appointment was not made at this time as Dr. Bentz will try to get letters of recommendation and his request for early termination submitted in August or September. After the information has been received an appointment will be made.

12:00 pm to 1:00 pm — **LUNCH**

1:00 pm
Dr. Michael Goates, Probationary Interview

Dr. Goates and his legal counsel, Larry Keller, met for Dr. Goates probationary interview.

Dr. George Pingree conducted the interview.

Dr. George Pingree stated that all Dr. Goates drug tests for the last 4 months have been positive. He asked Dr. Goates to explain.

Mr. Keller responded that he has not been provided with the drug test information and he would contest.

Ms. Taxin explained to Mr. Keller that this meeting is not a hearing but a Board meeting that Dr. Goates is on probation and is expected to answer the Board's questions.

Mr. Keller responded that if the questions being asked relate to the issues regarding the Order to Show Cause (OSC) then he would contend that the information should not be discussed here.

Dr. Howell reiterated that this is a Board meeting and not an OSC hearing.

Dr. Babitz again stated that the drug testing company has reported that 18 of the last 19 tests Dr. Goates has had were positive tests. He stated that the Board would still like Dr. Goates to explain.

Mr. Keller responded that since Dr. Goates will be responded at a hearing then he will not respond at this time.

Dr. Babitz commented that Dr. Goates has the right to respond or not to respond at this time.

Dr. George Pingree then asked Dr. Goates how he is doing.

Dr. Goates responded that it has been difficult to receive payments as the insurance companies will no longer reimburse him.

Dr. George Pingree asked Dr. Goates when he last drank alcohol.

Dr. Goates responded that he does not remember that far back.

Dr. George Pingree stated that Dr. Brunson reported that Dr. Goates has denied any alcohol consumption.

Dr. Goates responded that he sees Dr. Brunson every Thursday.

Dr. Babitz stated that there are numerous people taking the drug tests and all of them have had negative tests. He suggested that Dr. Goates not use anything that would cause a false positive or a true positive. He stated that he is wondering why Dr. Goates has not changed his habits and is not doing everything and anything so that the tests are not a false positive or a true positive.

Dr. Goates responded that several months ago he

informed the Board that he was under the care of a Dentist for a gingivitis problem and that if he does not use the mouthwash he will lose his teeth.

Dr. Babitz asked if Dr. Goates is suggesting that the mouthwash he uses is causing the high levels of positive tests that have been reported.

Dr. Goates responded that there is alcohol in bar-b-que sauce, vinegar, mouthwash, hand wash and many other everyday items.

Dr. Babitz commented that if that is the case, why would he continue to use those items?

Dr. Howell stated that the Board has not seen any documentation regarding Dr. Goates would loose his teeth if he does not use this mouthwash.

Mr. Keller responded that he will present information at the hearing regarding the use of the mouthwash. He asked the Board not to judge until after the hearing.

Dr. Howell stated that alcohol is something that shows up positive on a test and there is no medical documentation or evidence substantiating Dr. Goates using the specific mouthwash or that it is required. She stated that Dr. Goates should understand the Board's concern that the mouthwash use might be just a smoke screen.

Ms. Taxin stated that she asked Dr. Goates to talk to his Dentist regarding another mouthwash that does not have alcohol and to submit documentation to her. She stated that she has not yet received any documentation. Ms. Taxin stated that Dr. Goates submitted a picture of the bottle with no explanation regarding why he needed it.

Dr. Goates responded that he takes 4 ounces twice a day, swishes his mouth and then expels and does not swallow.

Dr. Bennion asked how long Dr. Goates has been using the mouthwash.

Dr. Goates responded that he has used the mouthwash about 5 years.

Dr. Sperry asked if Dr. Goates has discussed with his Dentist regarding other treatments or alternatives.

Dr. Goates responded that he talked with his Dentist a few weeks ago and the Dentist informed him that this was the only treatment. He stated that he believes he is in compliance with his Stipulation and Order as all his reports have been submitted.

Ms. Taxin stated that Dr. Goates is compliant with his reports. She stated that he is out of compliance with his Stipulation and Order based on the positive drug tests. She stated that all others issues may be addressed at the hearing.

Dr. Ries commented that 4 ounces seems like a lot of liquid at one time.

Dr. Goates responded that he is required to swish for a specific number of seconds and then to spit out the mouthwash. He then informed the Board that he will going on vacation August 4, 2008 through August 10, 2008. He stated that he will be hiking in the Deadwood, South Dakota area where they hike several days into a cabin and then hike out and won't be near a testing center. Dr. Goates requested the Board to waive the drug testing during that period of time.

Dr. Lamb made a motion to exempt Dr. Goates from drug testing from August 4, 2008 through August 10, 2008. Dr. Bennion, Dr. Fowler, Ms. Buhler, Dr. Howell, Dr. George Pingree, Dr. James Pingree, and Ms. Buhler voted in favor. Dr. Ries and Dr. Sperry opposed the motion. Dr. Babitz abstained from voting. The motion passed with a majority vote.

Ms. Taxin informed Dr. Goates that Ms. Harry would contact him.

The Board determined Dr. Goates is out of compliance with his Stipulation and Order.

No appointment was made at this time due to the scheduled hearing.

1:15 pm to 1:45 pm
Dr. Richard Melling, MD, Utah Biopharmaceutical Laboratories

Dr. Melling and Doug McClain met with the Board to discuss their application for a Pharmacy license.

Ms. Taxin explained that Dr. Melling submitted an application for a Manufacturing Pharmacy license. She explained that Dr. Melling's company uses processed goat serum to help MS patients and other types of autoimmune diseases. She explained that the company does not currently have an FDA number and approval to produce the product for human use and she therefore would have had to deny their application. She stated that she allowed Dr. Melling to withdraw his application but he requested to meet with the Board to explain what he what he wants to do at Utah Biopharmaceutical Laboratories.

Dr. Melling explained that he treats MS patients in Beaver, Utah. He stated that Beaver area has the highest MS numbers in the world. Dr. Melling explained that Dr. Erickson, in Texas, was using this medication with a Texas waiver and there is a Dr. Morales in Mexico that distributes 3 month supplies of the medication to U.S. citizens who were going there to obtain the medication and bringing it back to the U.S. He explained that he facilitated some patients receiving the medication from Mexico. Dr. Melling stated that Gary Herbert, the Lt. Governor of Utah, has stated that if there was a Utah company manufacturing and distributing the medication prior to FDA approval it would be a great thing for the State. He then explained the manufacturing process. Dr. Melling stated that his application would have been denied based on the lack of FDA registration so he requested the application be withdrawn. He explained that his attorneys have stated that he does not need the FDA registration and he is waiting to see what determination the Division attorneys will make. He stated that his goal is to treat his patients who have MS and have failed in the traditional therapy for the disease.

Mr. McClain stated that the testing is in Phase I right now.

Dr. Melling stated that they anticipate moving into Phase II after they receive Orphan designation. He stated that the product is now being manufactured in Texas by Iso-Tex and he has a letter from Iso-Tex that they have the approval of Texas to manufacture. He stated that currently the product is being manufactured in Boston, is sent to Wales and then to Texas. He stated that if the Board would approve the product it would be manufactured in Boston, sent to Wales and then directly to him for his patients.

Ms. Taxin stated that she was informed that the facility in Texas is a nuclear facility. She asked if Dr. Melling has any documentation regarding the type of facility that is in Texas.

Dr. Melling responded that he does have the documentation regarding the type of facility that is in Texas.

Mr. McClain commented that they are now in the process of obtaining the FDA approval.

Dr. Melling stated that there are many medicines used that are not FDA approved. He stated that he is asking the Physician's Board for a waiver. He stated that he receives many phone calls each week requesting information on obtaining the medication. Dr. Melling stated that he refers patients to Dr. Morales in Mexico.

Ms. Taxin asked Dr. Melling how he knows the medication given out by Dr. Morales is what it is proposed to be.

Dr. Melling responded that he does not know if it is what it is suppose to be but it works. He stated that the medication arrives in unlabeled bottles, it is expensive and there is no return policy so patients use the medication. He stated that he has called several times for guidance.

Ms. Taxin informed the Board that the Pharmacy

Board did not believe the Division made an error in their decision not to license Dr. Melling as he does not meet requirements for a Manufacturing Pharmacy.

Dr. Babitz commented that if Dr. Melling is planning to manufacture and dispense then he is on slippery slope as the Physician's Law will not allow for him to do both. He stated that Physicians administer, furnish and prescribe only and the Pharmacy includes storage, pill counting, manufacturing, dispensing to the patient to take at home. He stated that the first principal of a Physician is to do no harm and without FDA approval he is not sure if the product could or would do harm. He stated that Dr. Melling would be meeting with the Board for a different reason if a patient alleged they were harmed.

Dr. Melling explained that Iso-Tex was given a compassionate waiver but it is not on Orphan status yet. He stated that he believes he is following the practice as it is written in the Laws and Rules. Dr. Melling then asked to discuss alternative practices as a way he can use this medicine.

Ms. Taxin stated it is her understanding that if Dr. Melling is able to get the drug declared as an alternative drug then it won't get FDA approval.

DISCUSSION ITEMS:

Review Dr. Stanton Bailey's Request for Early Termination of Probation	The Board reviewed Dr. Bailey's request for early termination of probation. **The Board requested Dr. Bailey submit a second evaluation that supports the earlier evaluation.**
FYI	Ms. Taxin informed the Board that Dr. Paul Ray Taylor surrendered his license. **No Board action was taken.**
FYI	**The Board noted the Order to Show Cause Hearing on August 13, 2008 at 1:00 pm.** Board members asked how action was taken so quickly on this case while other cases take a long time.

Ms. Taxin responded that if there are concerns on other cases to notify her and she will check on them.

FYI

Ms. Taxin informed the Board that Michael Pope is a new probationer that will be meeting with them. She stated that he has been on top of his requirements and notified her that he had a trip planned. She stated that Dr. Pope asked if the AMA free CE would count toward his requirement.

Dr. Howell responded that if the CE is a category 1 then it would count.

FYI - Examinations

Ms. Taxin stated that she watched videos regarding the USMLE and SPEX examinations. She stated that the videos are about 20 minutes and talk about the process and how to prepare. Ms. Taxin asked if the Board would be interested in the information.

Dr. Babitz informed the Board of a training program. He stated that after the clinical skills there is a Step 2 to use the practical skills of going around to patients, spend time with them, ask them questions, evaluate them and then go out of the room and write up the evaluation. He stated that it is a good program.

Ms. Taxin stated that she attended the CPEP training program and it was another informative program for reentry or probationers.

Board members asked Ms. Taxin to show the videos of the examination information that she has in her office.

CORRESPONDENCE:

FSMB BoardNet News

The Board reviewed the FSMB BoardNet News. **No Board action was taken.**

FSMB State of the States Physician Regulation 2008 Pamphlet

The Board reviewed the FSMB State of the States Physician Regulation 2008 Pamphlet. **No Board action was taken.**

Utah Medical Association Bulletin, June-July 2008	The Board reviewed the Utah Medical Association Bulletin, June-July 2008. **No Board action was taken.**
NBME Examiner, Spring/Summer 2008	The Board reviewed the NBME Examiner, Spring/Summer 2008. **No Board action was taken.**
E-mail to Ms. Taxin	Ms. Taxin reviewed the e-mail regarding CME in Chicago. **No Board action was taken.**
2009 Annual Meeting	Ms. Taxin informed the Board that March 30, 2009 through April 2, 2009 is the schedule for the annual meeting. She asked if any Board member would be interested in attending. She stated that she is planning to attend the meeting. **Dr. Babitz and Dr. George Pingree voiced a desire to attend.**
NEXT MEETING SCHEDULED FOR:	August 13, 2008
ADJOURN:	Motion to adjourn by Dr. Bennion. Dr. Howell seconded the motion. The time is 2:15 pm and the Board meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

August 13, 2008
Date Approved

(ss) Marc E. Babitz, MD
Chairperson, Utah Physician's Licensing Board

July 28, 2008
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational & Professional Licensing

EXHIBIT E

IMMUNOSYN CORPORATION

SF-1019 RECEIVES APPROVAL
FOR TREATMENT, MARKETING AND DISTRIBUTION IN MALAYSIA

ARGYLL BIOTECH NOTIFIES IMMUNOSYN OF MINISTRY OF HEALTH APPROVAL

August 12, 2008

La Jolla, CA ... PR Newswire... Immunosyn Corporation (OTC Bulletin Board: IMYN) announced today that marketing, distribution and patient treatment approval has been granted by the Ministry of Health Malaysia for SF-1019 in the Private Pay Heath Sector in Malaysia. The marketing name for SF-1019 in Malaysia will be R-1818.

Argyll Biotechnologies, LLC, the licensor of SF-1019, Immunosyn's strategic partner and its largest shareholder, has notified Immunosyn that the Ministry of Health Malaysia has approved the importation, marketing and distribution of SF-1019 in the Private Pay Health Sector throughout Malaysia for the treatment of Diabetic Mellitus, Diabetic Neuropathy, Diabetic Ulcers as well as other Chronic Inflammatory and Degenerative Diseases. The Ministry of Health has also given approval for treating physicians in Malaysia to prescribe and export SF-1019 to patients residing outside of Malaysia.

"Today marks an important chapter in our company's entrance into the global markets and we are looking forward to commercially launching SF-1019," said Stephen D. Ferrone, President and CEO of Immunosyn.

"Malaysia is the first country to grant regulatory marketing, treatment and distribution approval of SF-1019," Ferrone added, "Immunosyn hopes to make Malaysia a central distribution hub in order for patients worldwide to be able to receive the benefit of SF-1019."

Argyll Biotech has worked for several years on developing the manufacturing processes, protocols, safety procedures and guidelines for SF-1019. Immunosyn, together with Argyll Biotech, is working to finalize Distribution Management and Information Component Systems that will be implemented to define protocols to assure patient safety and regulatory compliance in Malaysia as well as throughout the world prior to treatment commencing. In addition, Argyll will apply for an import license from Malaysian authorities. These steps are expected to be completed during the fourth quarter of 2008. Argyll Biotech has advised Immunosyn that they plan to continue the process to obtain full regulatory approvals for the marketing of SF 1019 throughout Asia as well as in Europe and then the U.S.

"The healthcare spending of Malaysians is incredibly high, reflecting the trend of Malaysians towards a healthy lifestyle", stated Douglas A. McClain, Jr., Chairman of the Board and CFO of Immunosyn, "This is an exciting early-stage development as this puts revenue producing capabilities within short-term range for the company."

SF-1019 is a compound that was developed from extensive research into Biological Response Modifiers. This research suggests that SF-1019 has the potential to affect a number of clinical conditions including complications from Diabetes Mellitus such as Diabetic Neuropathy (DN) and diabetic ulcers (DU), auto-immune disorders such as Multiple Sclerosis (MS) and neurological disorders. Results from a recent study

undertaken in Europe to evaluate the safety and efficacy of SF-1019 in the treatment of Diabetic Ulceration and its effect on Diabetic Polyneuropathy in Type 1 Diabetes Mellitus suggest that SF-1019 promotes wound healing and induces growth factors.

Globally, according to Diabetes Atlas, third edition © International Diabetes Federation, 2006 and www.diabetes.niddk.nih.gov:

- Approximately 246 million people have Diabetes Mellitus
- Estimated 50% (143 million) have Diabetic Neuropathy (DN)
- 1 in 6 (41 million) will develop a foot ulcer

Malaysia has a population of just over 25,000,000 people. According to the Ministry of Health Malaysia, in 2008 nearly 17% of the general population of Malaysia had Diabetes Mellitus. The Ministry states in its "Clinical Practices Guideline for Management of Diabetic Foot" that, "Diabetic foot complications pose a substantial problem in the Malaysian diabetic population. They are a major source of morbidity, a leading cause of hospital bed occupancy and account for substantial health care costs and resources."

In a report released in August, 2004, the Ministry noted, "The prevalence of foot ulceration in patients attending a diabetic outpatient clinic in Malaysia has been reported as 6%. Foot complications have been found to account for 12% of all diabetic hospital admissions which in turn made up 17% of all hospital admissions at Hospital Kuala Lumpur, Malaysia."

In addition to its own residents, Malaysia has a Health Tourism Industry which according to the Association of Private Hospitals Malaysia has an annual growth rate of 25 – 30% per year. The association attributes this growth rate to many factors including, but not limited to, the choice of world class infrastructure facilities, combined with high qualified, experienced practitioners and competitive, affordable pricing.

About Immunosyn Corporation

La Jolla, CA-headquartered Immunosyn Corporation (IMYN.OTC.BB) plans to market and distribute life enhancing therapeutics. Currently, the company has exclusive worldwide rights from its largest shareholder, Argyll Biotechnologies, LLC, to market, sell and distribute SF-1019. Argyll Biotechnologies, LLC has initiated the process for regulatory approval of SF-1019 in several countries and preparations for clinical trials are underway in both the US and Europe. (For more information on Immunosyn and SF-1019 go to www.immunosyn.com).

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The above news release contains forward-looking statements. These statements are based on assumptions that management believes are reasonable based on currently available information, and include statements regarding the intent, belief or current expectations of the Company and its management. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance, and are subject to a wide range of business risks, external factors and uncertainties. Actual results may differ materially from those indicated by such forward-looking statements. For additional information, please consult the Company's most recent public filings and Annual Report on Form 10-KSB for its most recent fiscal year. The Company assumes no obligation to update the information contained in this press release, whether as a result of new information, future events or otherwise.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ROBERT ALBERGO and DAVID IRWIN, Plaintiffs, vs. IMMUNOSYN CORPORATION, et al., Defendants.	CASE NO. 09CV2653 DMS (AJB) **ORDER:** **(1) GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT, AND** **(2) GRANTING PLAINTIFFS' MOTION FOR WRIT OF ATTACHMENT** [Docs. 17 & 27]

Pending before the Court are Defendants' motion to dismiss Plaintiffs' First Amended Complaint ("FAC"), and Plaintiffs' motion for writ of attachment. The matters came on for hearing on August 13, 2010. Andrew Tine and Dean Janis appeared on behalf of Plaintiffs. Todd Atkins appeared on behalf of Defendants. For the reasons set forth below, Defendants' motion to dismiss is granted in part and denied in part. Plaintiffs' motion for writ of attachment is granted.

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I.

BACKGROUND

Plaintiffs Robert Albergo and David Irwin allege that in early 2006, they were induced to invest a combined $1,025,000 in unrestricted stock of a "start-up" company called Nurovysn Biotech Corporation (now Immunosyn) through Argyll Equities. (FAC ¶ 120.) Plaintiffs claim they did so only after Defendants Douglas McClain, Sr., James Miceli and their agent, Dr. Brenner, made false representations regarding the potential value of the stock. (*Id.* at ¶ 114.) Specifically, Plaintiffs allege they were told Argyll Equities owned the exclusive right to sell a super drug called SF-1019. (*Id.* at ¶ 52.) Defendants asserted SF-1019 "was the next Google" and that studies had shown the drug to cure multiple sclerosis and diabetic skin ulcers. (*Id.* at ¶ 54.) Plaintiffs were also told: Nurovysn would be listed in the NASDAQ shortly after its public offering for $15.50 per share, an Osmond family member invested millions in the start-up company, SF-1019 would be given "orphan status" leading to an expedited FDA approval, and Immunosyn would obtain approval for the sale of SF-1019 in the United States within a two-week time frame. (*Id.* at ¶¶ 58-61, 73.)

Based on these representations, Plaintiffs were induced to enter into what the parties have called the First Argyll Contracts. (*Id.* at ¶ 65.) Under these contracts, executed in March and April 2006, Plaintiff Albergo paid $1,000,000 and Plaintiff Irwin paid $25,000 in exchange for 100,000 and 2,500 free-trading shares of common stock in Immunosyn, respectively. (*Id.* at ¶¶ 68, 72.) Neither Plaintiff received the stock. (*Id.* at ¶ 128, 137.) In March 2007, Plaintiffs were told that SF-1019 was already approved for sale in Canada, garnering $26,000,000 in monthly orders. (*Id.* at ¶ 78.) Then, on May 7, 2007, Plaintiffs received a letter from Defendant Miceli requiring them to sign new contracts, the Second Argyll Contracts, in order to receive their original stock certificates. (*Id.* at ¶ 79.) The Second Argyll Contracts contained terms and conditions not present in the First Contracts. (*Id.* at ¶ 80.) For example, the shares of stock being purchased by Plaintiffs were now restricted. (*Id.*) There were also references to SEC filings that were inconsistent with representations in the First Argyll Contracts. (*Id.*) However, because of the alleged false representations of Defendants, and given the requirement that Plaintiffs sign the Second Argyll Contracts in order to receive the original stock they purchased, both Plaintiffs signed the Second Argyll Contracts. (*Id.* at ¶ 81.) To this date, Defendants

continue to assert Immunosyn's potential strength in the market, although the company reported no revenue in 2007 or 2008 in its 10-Q and is currently selling stock at less than $1.00 per share. (*Id.* at ¶¶ 77, 92, 109.)

After signing the Second Argyll Contracts, Plaintiffs discovered Defendants had been selling SF-1019 through various commercial channels in violation of the exclusive license, and that Defendants had failed to report and allocate income to Immunosyn to the detriment of its stockholders. (*Id.* at ¶ 94.) Plaintiffs also allege that since 2006, over $1,000,000 was fraudulently transferred from Argyll Equities to Defendants Dona Miceli and the Thomas Road Company. (*Id.* at ¶¶ 164, 168.)

Plaintiffs allege Defendants' schemes were devised years ago. (*See id.* at ¶ 143.) Defendants Miceli, McClain, Sr. and McClain, Jr. purportedly entered into a 15-year partnership agreement on or about January 15, 1999. (*Id.* at ¶ 19.) On August 26, 1999, Defendant James Miceli was convicted of felony money laundering, forgery, perjury and theft over $100,000 in the State of Illinois. (*Id.* at ¶ 20.) In addition, Defendant McClain, Sr. was involved with a company called Nextpath Technologies, through which he sold large volumes of what was promised to be unrestricted stock to several unsuspecting investors. (*Id.* at ¶¶ 22, 26.) Instead, the investors received restricted stock after much delay, sued Defendant McClain, Sr. based on his misleading information, and obtained judgment against him for approximately $4,500,000. (*Id.* at ¶¶ 26, 27.)

Plaintiffs filed this lawsuit against five individual defendants: James Miceli, CEO of Argyll Biotech/Argyll Equities, Dona Miceli, wife of James Miceli, Douglas McClain, Sr., "controlling person" of Argyll Biotech/Argyll Equities and "Chief Science Officer" of Argyll Biotech, Douglas McClain, Jr., President of Argyll Biotech/Argyll Equities and CFO of Immunosyn, and Stephen Ferrone, President of Immunosyn, as well as the four corporations involved: Argyll Equities, LLC, Argyll Biotechnologies, LLC, Immunosyn Corp., and the Thomas Road Company. Plaintiffs have asserted eight claims for relief: (1) breach of contract, (2) violation of the Securities Exchange Act, (3) fraud and fraud in the inducement, (4) violation of RICO, (5) conspiracy to violate RICO, (6) civil conspiracy, (7) unjust enrichment, and (8) fraudulent conveyance.

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II.

DISCUSSION

A. Motion to Dismiss

1. Legal Standard

In two recent opinions, the Supreme Court established a more stringent standard of review for 12(b)(6) motions. *See Ashcroft v. Iqbal*, __ U.S. ___, 129 S.Ct. 1937 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). To survive a motion to dismiss under this new standard, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim for relief that is plausible on its face.'" *Iqbal*, 129 S.Ct. at 1949 (citing *Twombly*, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556). "Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 1950 (citing *Iqbal v. Hasty*, 490 F.3d 143, 157-58 (2d Cir. 2007)). The reviewing court must therefore "identify the allegations in the complaint that are not entitled to the assumption of truth" and evaluate "the factual allegations in [the] complaint to determine if they plausibly suggest an entitlement to relief." *Id.* at 1951.

2. Securities Fraud, Fraud and Fraud in the Inducement

Defendants argue Plaintiffs' first cause of action for securities fraud and second cause of action for fraud and fraud in the inducement do not meet the heightened pleading standards of Rule 9(b) and the Private Securities Litigation Reform Act of 1995 ("PSLRA"). (Def.'s Mot. to Dismiss 10:12-14.) Each is addressed in turn.

a. Fraud and Fraud in the Inducement

The elements of a fraud claim are false representation, knowledge of falsity, intent to defraud, justifiable reliance, and damages. *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1105 (9th Cir. 2003). Under Rule 9(b), "A party must state with particularity the circumstances constituting fraud." Fed. R. Civ. P. 9(b). A plaintiff must set forth the time, place and content of the false representation and explain why it is false. *In re GlenFed, Inc. Sec. Litig.*, 42 F.3d 1541, 1548 (9th Cir. 1994) (superseded

by statute on other grounds). In other words, fraud allegations must be accompanied by "the who, what, when, where, and how" of the misconduct charged. *Vess*, 317 F.3d at 1106. The "alleged fraud must be specific enough to give defendants notice of the particular misconduct . . . so that they can defend against the charge and not just deny that they have done anything wrong." *Id.* However, Rule 9(b) "may be relaxed as to matters within the opposing party's knowledge ... [and] the particularity requirement may be satisfied if the allegations are accompanied by a statement of the facts on which the belief is founded." *Moore v. Kayport Package Express*, 885 F.2d 531, 540 (9th Cir. 1989).

Here, Plaintiffs allege they relied on a series of misrepresentations before entering in to both the First and Second Argyll Contracts. In early 2006, Plaintiff Albergo engaged in conversations and writings with Defendants Miceli and McClain, Sr. Defendants made multiple misrepresentations, including that Immunosyn had an exclusive right to sell SF-1019, SF-1019 had the ability to cure multiple sclerosis and diabetic skin ulcers, there were studies to conclusively prove the effectiveness of SF-1019 and an Osmond family member invested millions of dollars in Immunosyn. (FAC ¶¶ 52-61.) Similarly, Plaintiff Irwin alleges that in early 2006, Dr. Jochen Brenner represented to him that he was selling Immunosyn stock, that Immunosyn was the "sole licensee" of a new "wonder drug," that Immunosyn had exclusive rights to make and sell SF-1019, that the drug cured severe cases of diabetes, that Immunosyn would obtain approval for the sale of SF-1019 in the United States within two weeks and that the stock would go public at that time for $15.50 per share. (*Id.* at ¶¶ 71-73.) Both Plaintiffs allege they were fraudulently induced into signing the Second Argyll Contracts because on March 26, 2007, Dr. Brenner represented that SF-1019 was approved for sale in Canada and that orders had been received for 130,000 vials per month–totaling $26,000,000 every month. (*Id.* at ¶ 78.) Further, on May 7, 2007, Defendant Miceli sent both Plaintiffs a letter with enclosed copies of the promised stock certificates, requiring Plaintiffs to sign the Second Argyll Contracts to receive their original stock certificates. (*Id.* at ¶ 79.) Plaintiffs argue Defendants pulled a "bait and switch" because the Second Argyll Contracts now referred to the shares of stock, which were already paid for, as "restricted" stock. (*Id.* at ¶ 80.)

Defendants argue the claim fails because Plaintiffs failed to include detailed allegations describing what was represented about Immunosyn, when the information was provided, why that

information was false, and the appropriate level of scienter. Defendants also argue that Dr. Brenner is not alleged to be an agent of Defendants, and that any agency claim fails because it was not until after this litigation began that Plaintiffs discovered Dr. Brenner was an employee of Argyll Equities.

Although Plaintiffs do not provide exact dates for each of the misrepresentations, the allegations are sufficient to satisfy Rule 9(b). The misrepresentations took place during a discrete time frame, early 2006 through the dates on which Plaintiffs signed the contracts, May and April 2006. *See Continental Airlines, Inc. v. Mundo Travel Corp.*, 412 F.Supp.2d 1059, 1068-69 (E.D. Cal. 2006) (stating allegations that misrepresentations were made "between March and May 2005" satisfied Rule 9(b)). Plaintiffs allege who made the statements and they provide the context of each statement. Plaintiffs allege the statements were false and that they relied on the statements when entering into the contracts. Plaintiffs further allege that Defendants Miceli and McClain, Sr. have used Dr. Brenner as an agent to help sell Immunosyn stock. (*Id.* at ¶ 74.) Plaintiffs allege that Dr. Brenner told Irwin he was selling stock on behalf of Argyll Equities, and that the information he was providing to Irwin came from Defendants Miceli and McClain, Sr. (*Id.* at 75.) Plaintiffs' agency claim is further supported by the fact that Plaintiff Albergo transferred $400,000 to Brenner for the purchase of $40,000 shares of stock. The fact that Plaintiffs later discovered Brenner was an employee of Argyll Equities does not indicate that Plaintiffs had no reason to believe he was acting as an agent at the time they entered into the contracts. Accordingly, Defendants' motion to dismiss the fraud and fraudulent inducement claim is denied.

b. Securities Fraud

Securities fraud claims must meet the heightened pleading standards of Rule 9(b), as well as those of the Private Securities Litigation Reform Act of 1995 ("PSLRA"). The PSLRA requires Plaintiffs claiming securities fraud to submit with particularity the facts constituting the alleged violation, as well as the facts demonstrating Defendants' intent to deceive or manipulate. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 313 (2007). The facts must give rise to a strong inference that Defendants acted with the required state of mind. *Id.* at 314. "It does not suffice that a reasonable fact finder plausibly could infer from the complaint's allegations the requisite state of mind." *Id.* Instead, a "strong" inference of scienter must be "cogent and at least as compelling as any

opposing inference of non-fraudulent intent." *Id.*

Plaintiffs allege Defendants violated the Exchange Act by: (1) failing to report income generated from the sale of SF-1019, (2) claiming in SEC filings made January 3, 2007 that Immunosyn had the exclusive worldwide license to market, distribute and sell SF-1019, and (3) failing to disclose that SF-1019 was being sold through channels outside of Immunosyn. (FAC ¶ 97.) In detailing their allegations, Plaintiffs have stated that Immunosyn's 10-Q, dated May 15, 2008, states it has no revenue and limited operations, when in fact SF-1019 has been sold for profit in the United States during 2008 without the profits being allocated to Immunosyn. (*Id.* at ¶¶ 92, 94, 107.) Thus, Plaintiffs claim the SEC filings are false or misleading because they do not account for the sales outside of Immunosyn's exclusive license. Taking Plaintiffs' allegations as true, Plaintiffs have successfully argued there is a strong inference of scienter on the part of Defendants. Further, Plaintiffs have alleged the date of the SEC filings, the date of the 10-Q, who signed the 10-Q, approximate dates of sales of SF-1019 outside of Immunosyn's exclusive license, and who knowingly took part in these sales and where. Defendants' motion to dismiss the securities fraud claim is therefore denied.

3. Breach of Contract

The elements of a breach of contract claim are: (1) existence of the contract; (2) plaintiff's performance or excuse for nonperformance; (3) defendant's breach; and (4) damages. *CDF Firefighters v. Maldonado*, 158 Cal. App. 4th 1226, 1239 (2008). Defendants argue Plaintiffs fail to allege facts that constitute a breach of contract. Plaintiffs, however, have alleged there existed a set of express contracts entitled the First Argyll Contracts, that they paid a combined sum of $1,025,000 for unrestricted stock, did not receive any such stock within the agreed time frame, and were damaged in the amount they paid.

Nonetheless, Defendants contend the claim fails because the Second Argyll Contracts superseded the First Argyll Contracts. Plaintiffs, however, allege the Second Argyll Contracts were procured by fraud. Fraudulent inducement renders an entire contract voidable, even if the contract provides that all conditions and representations therein supersede all prior agreements and representations. *Tain v. Hennessey*, 2009 U.S. Dist. Lexis 111654 at *13 (S.D. Cal. 2009) (quoting *Hinesley v. Oakshade Town Center*, 135 Cal. App. 4th 289, 301). Thus, Plaintiffs have adequately

pled breach of the First Argyll Contracts.[1]

To the extent Plaintiffs allege breach of Defendants' oral contracts, however, the claim fails. Plaintiffs do not adequately allege the terms of the oral contracts or the parties to such contracts. The statements forming the alleged oral contracts appear to be the same statements used to induce Plaintiffs to sign the First Argyll Contracts, rather than statements indicating an independent oral contract. Accordingly, Plaintiffs' breach of contract claim is dismissed without prejudice as to any alleged oral contracts.

4. RICO, Conspiracy to Violate RICO, and Civil Conspiracy

Title 18 U.S.C. § 1962(a)-(d), makes it unlawful to conduct or conspire to conduct an enterprise whose activities affect interstate commerce by committing or agreeing to commit a pattern of racketeering activity, including mail fraud, securities fraud, and any other offense punishable under state criminal or federal laws. *See Sedima v. Imrex Co.*, 473 U.S. 479, 481-84 (1985). A pattern of racketeering activity requires a showing "that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity." *H. J. Inc. v. Northwestern Bell Tel. Co.*, 492 U.S. 229, 239 (1989). Here, Defendants argue the RICO and conspiracy to violate RICO claims fail because Plaintiffs have not alleged a threat of continued criminal activity. Continuity refers "either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition." *Id.* at 241. "Whether the predicates proved establish a threat of continued racketeering activity depends on the specific facts of each case. *Id.* at 242. Continuity may be shown where the predicate acts or offenses are part of an ongoing entity's regular way of doing business." *Id.*

Plaintiffs have demonstrated a threat of continued criminal activity. Plaintiffs allege Defendants Miceli, McClain, Sr. and McClain, Jr. began a partnership in 1999 and since then have engaged in unlawful behavior. Plaintiffs allege McClain Sr. had a judgment entered against him for

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[1] Defendants also argue Plaintiffs' breach of contract claim must be dismissed because Plaintiffs have not attached the contracts to the complaint. "Failure to attach [a] contract to the complaint does not render [Plaintiffs'] claim invalid because Rule 8 requires merely a short and plain statement of the claim showing that the pleader is entitled to relief." *Vincent Consol. Commodities, Inc. v. Am. Trading & Transfer, LLC*, 2007 U.S. Dist. Lexis 53680 at *9 (S.D. Cal. 2007) (quotations omitted). Further, Plaintiffs submitted the contracts with their motion for writ of attachment and Defendants have asked the Court to judicially notice the contracts; thus, the contracts are before the Court.

conduct similar to that alleged here, *i.e.*, promising unrestricted stock in a company but then providing buyers with restricted stock. (FAC ¶¶ 26-27.) Plaintiffs allege that Defendant McClain, Sr. then used the money obtained from his prior fraudulent practices to finance the start of other companies, namely, Argyll Equities, which, in turn, financed the start of Immunosyn. (*Id.* at ¶¶ 29, 35.) Plaintiffs also allege that there are numerous unsatisfied judgments against Argyll Equities and Defendant McClain, Sr. regarding securities and stock lending fraud. (*Id.* at ¶ 33.) Plaintiffs further allege that Defendants' misrepresentations regarding SF-1019 continue to this day. (*See id.* at ¶¶ 89-91.) Plaintiffs, therefore, have adequately alleged a threat of continued criminal activity.

Similarly unavailing is Defendants' claim that Plaintiffs have merely plead that Defendants were involved in setting up a legal drug company and that Plaintiffs knew they were investing in a speculative company. While an element of risk is present in every stock investment, Defendants here are alleged to have knowingly hidden the risks in purchasing stock in Immunosyn, and instead have presented Plaintiffs with fictitious statistics and statements regarding the value of Immunosyn. Accordingly, Defendants' motion to dismiss the RICO and Conspiracy claims is denied.

5. Unjust Enrichment

Plaintiffs assert a claim for unjust enrichment. Unjust enrichment, however, is a "general principle underlying various legal doctrines and remedies;" it is not an independent cause of action. *McBride v. Boughten*, 123 Cal. App. 4th 379, 387 (2004) (quoting *Melchior v. New Line Products, Inc.*, 106 Cal. App. 4th 779, 793 (2003)). Accordingly, Plaintiff's claim for unjust enrichment fails.

6. Fraudulent Transfer

Plaintiffs bring their fraudulent transfer claim under the California Uniform Fraudulent Transfer Act ("UFTA"). "A fraudulent conveyance under UFTA involves a transfer by the debtor of property to a third person undertaken with the intent to prevent a creditor from reaching that interest to satisfy its claim." *Filip v. Bucurenciu*, 129 Cal. App. 4th 825, 829 (2005) (quotations omitted). Defendants argue the UFTA claim fails because Plaintiffs are not creditors and were not creditors at the time of the alleged fraudulent conveyance. However, a person with a "claim" is a creditor under UFTA. Civil Code Section 3439.01 (c). Further, "A transfer made ... by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made, if the debtor made

the transfer ... with actual intent to hinder, delay, or defraud any creditor of the debtor." *Id.* (quotations omitted).

Defendants also argue that Plaintiffs fail to plead that any improper transfers were made with the actual intent to hinder, delay or defraud any creditor of the debtor. Plaintiffs, however, allege that "Argyll Equities is insolvent due to substantial judgments being obtained against it by creditors," and that "assets of Argyll Equities have been transferred to Dona Miceli without providing reasonably equivalent value in exchange to Argyll Equities and with the intent to hinder and prevent collection by Plaintiffs and other creditors." (FAC ¶¶ 165, 169.) Plaintiffs then claim they have been damaged by the fraudulent transfer of money from Argyll Equities to Dona Miceli. (*Id.* at ¶ 170.) Thus, Plaintiffs have adequately pled a fraudulent transfer claim against Defendant Dona Miceli. On the other hand, Plaintiffs have not claimed the transfer of money from Argyll Equities to Defendant Thomas Road Company was done with the actual intent to hinder, delay or defraud any creditor of the debtor. Accordingly, the motion to dismiss the fraudulent transfer claim is granted as to Defendant Thomas Road Company and denied as to Defendant Dona Miceli.

7. Alter Ego Liability

Defendants argue that Plaintiffs fail to allege sufficient facts to pierce the corporate veil and that Plaintiffs have simply made conclusory allegations that the Defendant companies are alter egos of the individual Defendants. (*Id.* at 17:3-5.) "Under the alter ego doctrine, however, where a corporation is used by an individual or individuals ... to perpetrate fraud ... or accomplish some other wrongful or inequitable purpose, a court may disregard the corporate entity and treat the corporation's acts as if they were done by the persons actually controlling the corporation." *Communist Party v. 522 Valencia, Inc.*, 35 Cal. App. 4th 980, 993 (1995). Generally, there are two requirements for applying the alter ego doctrine "(1) there is such a unity of interest and ownership between the corporation and the individual or organization controlling it that their separate personalities no longer exist, and (2) failure to disregard the corporate entity would sanction a fraud or promote injustice." *Id.*

Some factors supporting a unity of interest are inadequate capitalization, failure to issue stock, an individual's treatment of corporate assets as his own, disregard of legal formalities, and a diversion of assets from the corporation by or to a stockholder or other person or entity. *Assoc. Vendors, Inc.*

V. Oakland Meat Co., 210 Cal. App. 2d 825, 838 (1962). The prospect of an inequitable result is evident when there exists an unsatisfied creditor coupled with an abuse of the corporate form, such as undercapitalization so extreme that the capital generated is insufficient to meet obligations that could reasonably arise in the standard course of business. *See Orloff v. Allman*, 819 F.2d 904, 909 (9th Cir. 1987).

As stated earlier, Plaintiffs have adequately alleged Defendants used their corporations to perpetrate securities fraud and fraudulent inducement against Plaintiffs. In addition, Plaintiffs have alleged that Defendants Miceli, McClain, Sr. and McClain, Jr. control Argyll Equities, Argyll Biotech and Immunsoyn, that they have failed to follow corporate formalities, and that they do not segregate their personal assets from business assets. (*Id.* at ¶¶ 47, 49.) Accordingly, Plaintiffs have adequately pled sufficient facts to show a unity of interest between the Defendant corporations and the individual Defendants. Defendants' motion to dismiss on these grounds is denied.

B. Motion for Writ of Attachment

1. Legal Standard

Motions for writ of attachment are subject to the laws of the state where the district court is located; federal statutes govern to the extent they apply. Fed. R. Civ. P. 64(a) & (b). Thus, California law generally provides the rules governing Plaintiffs' motion. The function of an attachment is to secure the payment of any judgment rendered in the main action. To secure a writ of attachment, the Plaintiffs have the burden to prove: (1) the claim is one on which an attachment may be issued; (2) the probable validity of such claim; (3) the attachment is not sought for any other purpose than to secure recovery on the claim and; (4) the amount to be secured by the attachment is greater than zero. Cal. Civ. Proc. Code § 484.090. Because granting the motion would cause Defendants to lose control of their property, the prerequisites for issuance of a writ of attachment are strictly construed against Plaintiffs. *Blastrac v. Concrete Solutions & Supply*, 678 F. Supp. 2d 1001, 1004 (C.D. Cal. 2010).

An attachment may be issued only if the claim sued upon is (a) "a claim for money based upon a contract, express or implied; (b) of a fixed or readily ascertainable amount not less than $500 (by reference to the contract itself); (c) that is either unsecured or secured by personal property, not real property (including fixtures); and (d) is a commercial claim." Cal. Civ. Proc. Code § 483.010.

Attachment is available with respect to any claim against a partnership or corporation, or to claims against individuals that "arise out of the conduct by the individual of a trade, business or profession." Cal. Civ. Proc. Code § 483.010(c).

Probable validity exists where it is "more likely than not that the plaintiff will obtain a judgment against the defendant on that claim." Cal. Civ. Proc. Code § 481.190. In other words, "the Court must consider the relative merits of the positions of the respective parties and make a determination of the probable outcome of the litigation." *Loeb & Loeb v. Beverly Glen Music, Inc.*, 166 Cal. App. 3d 1110, 1120 (1985).

Declarations stating that the attachment is sought for an appropriate purpose and the amount to be secured is greater than zero must contain competent evidence by a declarant with personal knowledge of each fact stated, while conclusory or more generalized statements do not suffice.[2] The Code requires the facts stated in each affidavit "be set forth with particularity." Cal. Civ. Proc. Code § 482.040. In addition, facts in support of a motion for writ of attachment must be evidentiary, and not the alleged ultimate facts normally set forth in pleadings.

2. Type of Claim

Plaintiffs have shown their claims to be appropriate for filing a motion for writ of attachment. The proposed writ is based primarily on the breach of the First Argyll Contracts and fraudulent inducement to enter into both the First and Second Argyll Contracts.[3] Plaintiffs attribute the formation of the written contract and its eventual breach to the underlying fraudulent conduct. "An action to avoid or rescind an agreement because of fraudulent inducement . . . is an action on a contract." *In re Baroff*, 105 F.3d 439, 443 (9th Cir. 1997). Therefore, both claims are based on an express contract, as required. In addition, the claims for money are appropriate because they are of an ascertainable amount ($1,025,000) and are commercial claims. Finally, the allegations arise out of conduct by

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[2] Defendants object to the admissibility of Plaintiffs' declarations in this case because they were signed with electronic, rather than original, signatures. Use of the electronic signature was an inadvertent mistake of counsel, and Plaintiffs re-filed identical declarations with original signatures. Defendants' objection is overruled.

[3] Plaintiffs also seek attachment under the Uniform Fraudulent Transfer Act, Cal. Civ. Code § 3439 et seq., on the claim that Argyll Equities fraudulently transferred over $1 million to Dona Miceli. Plaintiffs have failed to meet their burden on this claim as there are inconsistences in the record as to whether Mrs. Miceli ever loaned money to Argyll Equities. (*See* Ex. V, Wirtz Depo. 84:11-13, 85:10-15.)

individuals of a trade or business, namely, the sale of common stock.

3.____Probable Validity

The most hotly debated issue is whether or not the claims have "probable validity" according to California's Code of Civil Procedure. In other words, the Court must determine if it is more likely than not that judgments on the two claims will be awarded in favor of Plaintiffs.

To show probable validity on their breach of contract claim, Plaintiffs must establish by a preponderance of the evidence "the existence of the contract, performance by the plaintiff or excuse for nonperformance, breach by the defendant, and damages." *First Commercial Mortgage Co. v. Reece*, 89 Cal. App. 4th 731, 745 (2001). Plaintiffs have submitted undisputed facts in their briefs and declarations that there existed a set of express contracts referred to as the First Argyll Contracts, that they paid a combined sum of $1,025,000 for unrestricted stock, and that they did not receive any such stock. Plaintiffs then contend they suffered damages in the amount paid under the contracts, due to Defendants' failure to timely deliver the unrestricted stock certificates. Thus, Plaintiffs have met their burden to show probable validity of their claim.

Defendants argue that Miceli is not personally liable for the breach of contract because he is not a party to the contract. Corporate officers, however, are personally liable for their own torts. *PMC, Inc. v. Kadisha*, 78 Cal. App. 4th 1368, 1380 (2000). As discussed above, Plaintiffs have adequately alleged that Miceli fraudulently induced Plaintiffs into signing the contracts. This is supported by Plaintiffs' declarations and other evidence. The evidence shows, for example, that Defendants Miceli and McClain, Sr. controlled "The Argyll Group," a group of companies that owned the rights to a drug called SF-1019 (Irwin Decl. ¶ 4; Exh. F); prior to March 13, 2006, Plaintiffs were told about a "wonder drug" called SF-1019, which was being promoted by Defendants Miceli and McClain, Sr., through their agent Dr. Jochen Brenner (Irwin Decl. ¶ 4; Albergo Decl. ¶ 4); Defendants Miceli and McClain, Sr. represented to Plaintiff Albergo that SF-1019 cured multiple sclerosis and diabetic skin ulcers, confidential studies existed to conclusively prove the effectiveness of SF-1019, an Osmond family member invested millions in the new company, and Plaintiff Albergo would be receiving "free-trading" shares of the company's common stock (Albergo Decl. ¶ 8); despite repeated inquiries, Plaintiff Albergo has not seen the purported published studies showing SF-1019's

effectiveness, and Immunosyn's SEC filings indicate the drug has never been tested (Albergo Decl. ¶ 19; Exh. CC); relying on such misrepresentations, Plaintiffs were induced to sign the First and Second Argyll Contracts (Irwin Decl. ¶¶ 10, 14; Albergo Decl. ¶¶ 9, 12, 14); and neither Plaintiff received the unrestricted stock pursuant to the First Argyll Contracts (Irwin Decl. ¶ 13; Albergo Decl. ¶ 10.).

Moreover, Miceli is personally liable for the breach of contract under the alter ego doctrine. As previously discussed, "where a corporation is used by an individual or individuals ... to perpetrate fraud ... or accomplish some other wrongful or inequitable purpose, a court may disregard the corporate entity and treat the corporation's acts as if they were done by the persons actually controlling the corporation." *Communist Party v. 522 Valencia, Inc.*, 35. Cal. App. 4th 980, 993 (1995). Plaintiffs have shown Miceli used the corporate form to perpetrate fraud, namely by fraudulently inducing Plaintiffs into investing more than $1 million in Immunosyn. Additionally, SF-1019 has been sold outside the exclusive license without the income being allocated to Immunosyn (Albergo Decl. ¶ 17), and SEC filings from 2008 show that Immunosyn has no operating history and has generated no revenue to date (Exh. CC), indicating diversion of funds and inadequate capitalization of Immunosyn. Accordingly, Plaintiffs have shown probable validity of their claims.

4. Remaining Elements

Plaintiffs have asserted in their declarations that they are seeking the attachment only to secure payment on their respective judgments. (Irwin Decl. ¶ 19; Albergo Decl. ¶ 30.) Plaintiff Albergo seeks an attachment in the amount of $600,000, while Plaintiff Irwin seeks the attachment in the amount of $25,000. (Pls.' Mem. 2:12-14.) Plaintiffs have shown that the attachment is not sought for any purpose other than to secure recovery on the claim and that the amount to be secured by the attachment is greater than zero.

All elements required for a writ of attachment have been met. Accordingly, Plaintiffs' motion is granted.[4]

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[4] To the extent Defendants claim a homestead exemption, the amount of such exemption can be determined if and when Plaintiffs obtain judgment.

III.

CONCLUSION

For the reasons stated above, Defendants' motion to dismiss is granted in part and denied in part. Specifically, the Court grants Defendants' motion as to the alleged breach of oral contract, the unjust enrichment claim, and the fraudulent transfer claim against Defendant Thomas Road Company. The remainder of Defendants' motion is denied. Plaintiffs may file a Second Amended Complaint in accordance with this Order by no later than September 7, 2010.

Plaintiffs' motion for writ of attachment is granted. Thus, Plaintiffs have a right to attach property of Defendant James T. Miceli in the amount of $625,000. The clerk shall issue a writ of attachment in the amount of $625,000 upon the filing of an undertaking in the amount of $10,000, for the real property commonly known as 1440 Cypress Point, Poway, CA, San Diego County APN 277-210-07, and legally described in the attached Legal Description Exhibit.

IT IS SO ORDERED.

DATED: August 23, 2010

HON. DANA M. SABRAW
United States District Judge