

EXHIBIT 5

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KATHLEEN MOLLER,)
) CIVIL ACTION NO.
Plaintiff,) 24-0228-WBV-DPC
)
vs.) JUDGE WENDY B. VITTER
)
MARTIN SALES, INC., et al.) MAGISTRATE DONNA
) PHILLIPS CURRAULT
Defendants.)

THURSDAY, OCTOBER 16, 2025

— — —

Remote Videotaped Deposition of FRCP 30(b)(6)
Corporate Designee, DAVID GABBAY, taken pursuant to notice
and held at the location of the witness in the State of
Georgia, on the above date, commencing at 8:38 a.m., CDT,
taken stenographically by Jennifer A. Dunn, Registered Merit
Reporter, Certified Realtime Reporter, California, Illinois,
& Texas Certified Shorthand Reporter, and Missouri Certified
Court Reporter.

Job No. 7656076

1 A I don't believe we did.

2 Q How about 2013?

3 A I don't know that we did back then.

4 Q When did Jopen implement any method of collecting
5 adverse events associated to OPMS Kratom?

6 A Maybe 2015, 2016. 2015.

7 Q So what did Jopen do in approximately 2015 or 2016
8 to collect adverse event information?

9 A At the time, we had e-mail on the labels that I
10 would monitor and a phone number.

11 Q What's the e-mail?

12 A I don't remember anymore. It's been -- I think
13 it's, like: "Info@."

14 Q So the info@OPMSkratom.com e-mail?

15 A I believe so.

16 Q All right. So -- so you were monitoring an e-mail
17 and phone number.

18 Had that -- has that system changed since 2015 or
19 2016?

20 A It has.

21 Q When did it change?

22 A About a year ago.

23 Q And what was the change, what has occurred?

24 A A third party's monitoring it.

25 Q Who's the third party?

1 A John Pratt, I believe.

2 Q John Pratt?

3 A Yeah.

4 Q Why did that change occur?

5 A Advice of counsel.

6 Q Any other reason?

7 A No other reason.

8 Q Did you approach counsel for that advice or did
9 counsel provide that advice unsolicited?

10 MS. PAYTON: Object to the form of the
11 question. I think that's privileged, Michael.

12 If he asked -- or the lawyer told him. I'm
13 not sure I understand the question.

14 Object to the form.

15 BY MR. COWGILL:

16 Q Well, let me approach it this way.

17 Which counsel provided that advice to you?

18 A Gwendolyn.

19 Q Now, I want to focus back on the system that
20 predated this change to Pratt last year. So roughly 2015 or
21 2016 to, I guess 2024; is that right?

22 A Correct.

23 Q Within that timeframe, roughly eight or nine
24 years, what sort of adverse event information did Jopen
25 receive through the referenced e-mail and phone number?

1 MS. PAYTON: Object to the form.

2 THE WITNESS: I don't know that we did
3 receive any adverse events during that timeframe.

4 BY MR. COWGILL:

5 Q Did you ever receive notice of a lawsuit?

6 A Not through there.

7 Q Did you ever receive notice of a death allegedly
8 caused by OPMS Kratom?

9 A I'm trying to think of the timeframe. I mean,
10 there was -- the OPMS from the FDA might have come through.

11 Q Are you referring to the recent FDA warning on
12 OPMS Liquid Black?

13 A Correct.

14 Q We might look at that later, I don't know the
15 timeframe off the top of my head, but are you indicating
16 that that -- the FDA contacted you through the e-mail and
17 the phone number?

18 A I believe so.

19 Q So did the transition to Pratt, that would have
20 occurred after the FDA's contact?

21 A I don't remember.

22 Q So if the FDA contacted you after that transition,
23 it would have been through Pratt?

24 A Correct.

25 Q What information is collected by Pratt?