U.S. FOOD & DRUG ADMINISTRATION

NOTICE OF INITIATION OF DISQUALIFICATION PROCEEDINGS AND OPPORTUNITY TO EXPLAIN (NIDPOE)

VIA UNITED PARCEL SERVICE

Yvelice A. Villaman-Bencosme, M.D.
4648 NW 90th Avenue
Sunrise, Florida 33351
[redacted] (b)(6)

Dear Dr. Villaman-Bencosme:

The U.S. Food and Drug Administration (FDA) conducted an inspection at your clinical site between February 6 and April 28, 2017. Investigators Craig A. Garmendia and Richard A. Lyght, representing FDA, reviewed your conduct of the following clinical investigations:

- Protocol SAS115358 (VESTRI), "A 6-month safety and benefit study of inhaled fluticasone propionate/salmeterol combination versus inhaled fluticasone propionate in the treatment of 6,200 pediatric subjects 4-11 years old with persistent asthma," of the investigational drug inhaled fluticasone propionate/salmeterol combination, performed for GlaxoSmithKline (GSK) Research and Development

- Protocol [redacted] (b)(4)

This inspection was conducted as a part of FDA's Bioresearch Monitoring Program, which includes inspections designed to evaluate the conduct of research and to help ensure that the rights, safety, and welfare of human subjects have been protected.

At the conclusion of the inspection, Investigator Garmendia presented and discussed with you the items listed on the Form FDA 483, Inspectional Observations. We acknowledge receipt of your May 21, 2017, written response to the Form FDA 483.

Subsequently, in January of 2021, you pleaded guilty in the United States District Court for the Southern District of Florida to conspiracy to commit wire fraud in violation of 18 U.S.C. 1349.

We have reviewed the Plea Agreement you signed on August 27, 2020, in the criminal case *U.S.A. v. Yvelice A. Villaman Bencosme*, No. 1:20-CR-20190-BB (S.D. Fla. 2021), and the Factual Proffer in Support of Guilty Plea in that case that you signed on August 27, 2020. Based on our evaluation of information obtained by FDA, we believe that you have repeatedly and/or deliberately submitted false information in required reports of clinical studies involving an investigational new drug as published under *Title 21, Code of Federal Regulations (CFR), Part 312* (copy enclosed).

This letter provides you with written notice of the matters complained of and initiates an administrative proceeding, described below, to determine whether you should be disqualified from eligibility to receive test articles as set forth under 21 CFR 312.70, and disqualified from eligibility to conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA, including drugs, biologics, devices, new animal drugs, food, including dietary supplements, that bear a nutrient content claim or a health claim, infant formulas, food and color additives, and tobacco products.

A listing of the violations follows. The applicable provisions of the CFR are cited for each violation.

You repeatedly or deliberately submitted to the FDA or to the sponsor false information in any required report [21 CFR 312.70(a)].

FDA has concluded that, during your conduct of Protocol SAS115358 (VESTRI), you repeatedly and/or deliberately submitted false information to FDA or to the sponsor in required reports. Specifically, as described in the Factual Proffer in Support of Guilty Plea cited above, you caused false information to be entered in subjects' case histories, to make it appear that subjects had, among other things, satisfied the eligibility criteria to participate in the study; provided informed consent to participate in the study; received a physical examination conducted by you; received and returned study drug at your clinic; and received payment for study visits at your clinic, when in fact no such events occurred. For example, on or about April 22, 2015, you signed case history documentation for pediatric subject D.H., falsely and knowingly representing that D.H. was participating in the study; that D.H. had visited your clinic for a checkup; and that you had given D.H. an examination. You were aware, however, that subject D.H. did not participate in the study and that you did not perform an examination of this subject on that date. Repeated or deliberate submission of false information in any required report to FDA or to the sponsor is a violation of 21 CFR 312.70(a).

As the clinical investigator, it is your responsibility to ensure that the data collected from study subjects are accurate and can be relied upon in any analyses of the study endpoints. When you signed the Form FDA 1572, Statement of the Investigator, you agreed to provide accurate information to the sponsor and to ensure that you would comply with FDA regulations related to the conduct of the clinical investigations of the investigational drugs; and you agreed to ensure that all associates, colleagues, and employees assisting in the conduct of the studies were informed about their obligations in meeting their commitments. Furthermore, your signature

constitutes both your affirmation that you are qualified to conduct the clinical investigation and your written commitment to abide by FDA regulations in the conduct of the clinical investigations. The submission of false information significantly compromises the study integrity, as well as the reliability and validity of the data.

This letter is not intended to be an all-inclusive list of deficiencies with your clinical studies of investigational products. It is your responsibility to ensure adherence to each requirement of the law and relevant regulations.

Based on your Plea Agreement and the Factual Proffer in Support of Guilty Plea, as well as the above-listed regulations, FDA asserts that you have repeatedly and/or deliberately submitted false information to the sponsor or the FDA, which caused unnecessary risks to human subjects and jeopardized the integrity of data, and FDA proposes that you be disqualified as a clinical investigator. You may reply to the above-stated findings, including an explanation of why you should not be disqualified as a clinical investigator, either in a written response or at an informal conference in my office. This procedure is provided for by regulation 21 CFR 312.70.

Within fifteen (15) working days of your receipt of this letter, write to me at the address below or call me at 301-796-5632 to arrange a conference time or to indicate your intent to respond in writing.

Should you choose to respond in writing, your written response should be forwarded within thirty (30) days of your receipt of this letter.

Your reply should be sent to:

David C. Burrow, Pharm.D., J.D.
Director
Office of Scientific Investigations
Office of Compliance
Center for Drug Evaluation and Research
U.S. Food and Drug Administration
Building 51, Room 5348
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

Should you request an informal conference, we ask that you provide us with a full and complete explanation of the above-listed violations. You should bring with you all pertinent documents, and a representative of your choice may accompany you. Although the conference is informal, a transcript of the conference will be prepared. If you choose to proceed in this manner, we plan to hold such a conference within 30 days of your request.

At any time during this administrative process, you may enter into a consent agreement with FDA regarding your future use of investigational products. Such an agreement would

terminate this disqualification proceeding. Enclosed you will find a proposed agreement between you and FDA.

The FDA's Center for Drug Evaluation and Research (the Center) will carefully consider any oral or written response. If your explanation is accepted by the Center, the disqualification process will be terminated. If your written or oral responses to our allegations are unsatisfactory, or if we cannot come to terms on a consent agreement, or if you do not respond to this notice, you will be offered a regulatory hearing before FDA, pursuant to 21 CFR 16 (copy enclosed) and 21 CFR 312.70. Before such a hearing, FDA will provide you with notice of the matters to be considered, including a comprehensive statement of the basis for the decision or action taken or proposed, and a general summary of the information that will be presented by FDA in support of the decision or action. A presiding officer who has not participated in this matter will conduct the hearing. After this hearing, the Commissioner will determine whether you will remain entitled to receive test articles and to conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA.

You should be aware that neither entry into a consent agreement nor pursuit of a hearing precludes the possibility of an administrative remedy or further judicial proceedings concerning these violations.

To enter into the enclosed consent agreement with FDA, thereby terminating this disqualification process, you must:

(1) Initial and date each page of this Agreement;
(2) Sign and date the last page of this Agreement; and
(3) Return this Agreement initialed, signed, and dated to the signer below.

A copy of the fully executed Agreement will be mailed to you.

Sincerely yours,

/s/

David C. Burrow, Pharm.D., J.D.
Director
Office of Scientific Investigations
Office of Compliance
Center for Drug Evaluation and Research
U.S. Food and Drug Administration

Enclosures:
(1) Consent Agreement
(2) 21 CFR 16
(3) 21 CFR 312.70