



19 September 2024 News Americas Liz Hockley

Gilead scores win in fake HIV drug dispute

New York court grants Gilead's contempt motion | Defendant violated asset freeze order by selling and mortgaging properties

A New York magistrate judge has sided with [Gilead Sciences](#) in the latest phase of its lawsuit against the alleged perpetrators of an HIV drug counterfeiting ring, finding one defendant in contempt of court for violating the terms of an asset freeze order.

Judge Joseph Marutollo recommended a finding that the defendant had violated the “clear and unambiguous” terms of the order by selling, mortgaging and contracting for the sale of three properties in Miami and Florida.

The asset freeze order was issued following allegations made by Gilead in 2021 that certain suppliers, distributors and pharmacies [were involved in a counterfeiting ring](#) for HIV medication.

<https://www.lifesciencesipreview.com/americas/gilead-scores-win-in-fake-hiv-drug-dispute>

According to the biopharma company, the defendants sold “authentic-looking” bottles repurposed with non-Gilead drugs—such as antipsychotic medication—that do not treat HIV.

Gilead also alleged the defendants sold thousands of Gilead-branded bottles with the correct medication but accompanied by fake “pedigrees”, records purporting to show the chain of sales or transfers of that drug.

This included bottles labelled as HIV medicines Biktarvy and Descovy, the company said at the time.

The lawsuit was started with a heightened interest in putting “an immediate stop to the sale of these dangerous counterfeit medications”, Gilead said, as people who consumed the counterfeits could “unwittingly miss their HIV treatment or falsely believe themselves to be protected against HIV infection”.

Gilead’s claims included trademark infringement, deceptive business practices, false descriptions and false designations of origin in commerce, and racketeering allegations.

LLC ‘no shield for contempt liability’

In August 2022, Gilead’s motion for an asset freeze order against certain newly added defendants to preserve its “right to an equitable accounting” was granted.

The asset freeze order included restrictions that prevented the defendants from “transferring, selling, mortgaging” properties.

Gilead claimed that one of the newly added defendants set up the organisation of the counterfeiting ring, and that another was his “live-in girlfriend” who allegedly “keeps significant assets from the criminal enterprise in her name”.

Judge Marutollo found that the latter defendant violated the asset freeze order by “causing the sale of a Miami property”; “mortgaging her primary residence in Broward County, Florida”; and “contracting for the sale of her primary residence in Broward County, Florida”.

In the decision, unsealed yesterday, the court rejected the defendant’s argument that she could not be held in contempt for selling the Miami property because it was owned and sold by a limited liability company.

The defendant “may not shield herself from contempt liability by causing a LLC—of whom she is the sole owner, member, and manager—to engage in prohibited acts on her behalf”, said the judge.

Judge Marutollo recommended granting Gilead’s contempt motion, holding the defendant in contempt for violating the asset freeze order, and imposing sanctions on the defendant.

Gilead is represented in this matter by Patterson Belknap Webb & Tyler partner [Geoffrey Potter](#).

Counsel for the defendant withdrew from representation in January, and they are proceeding *pro se*.