

Wholesaler To Pay \$33.4M In Abbott Labs Test Strips TM Row

By **Tiffany Hu**

Law360 (March 27, 2023, 8:50 PM EDT) -- A gray market diabetes test strip seller must pay more than \$33 million total to Abbott Laboratories after a New York federal judge found that the seller violated trademark laws by selling test strips made for the European market in the U.S.

In a filing Friday, U.S. District Judge Carol Bagley Amon ordered wholesaler H&H Wholesale Services Inc., along with the company's CEO, Howard Goldman, and his wife and employee, Lori Goldman, to pay nearly \$26.5 million in damages, \$1.5 million in attorney fees and costs, and \$5.48 million in prejudgment interest to Abbott and its affiliates.

The ruling comes after Judge Amon in December ordered the defendants to pay \$26.5 million in damages, which reflected double the \$13,245,690 amount of losses from H&H's sales that Abbott's lawyers were able to tally in early 2021.

Counsel for the parties did not immediately return requests for comment Monday.

Friday's order is the latest development in one of the more litigated trademark disputes in a campaign Abbott initiated in 2015, accusing various distributors and pharmacies of selling Abbott's FreeStyle brand of blood glucose test strips in the U.S. that the company had marketed to be sold in other countries.

In 2019, U.S. Magistrate Judge Lois Bloom wrote that H&H and the Goldmans deserve "the harshest sanction" for using search terms they knew would not turn up results during discovery and specifically removing damning documents.

In 2020, Judge Amon wholly agreed with Judge Bloom and has spent the years since deciding how much H&H owes Abbott. Abbott had pushed for the judge to triple that number, which would have brought the judgment to a total of \$39,737,070, but the judge declined in December.

Abbott is represented by Geoffrey Potter and Timothy A. Waters of Patterson Belknap Webb & Tyler LLP.

H&H and Howard Goldman are represented by Peter M. Levine.



Geoffrey Potter



Timothy Waters

Lori Goldman is represented by Joshua H. Epstein of Davis & Gilbert LLP.

The case is Abbott Laboratories v. Adelpia Supply USA et al., case number 1:15-cv-05826, U.S. District Court for the Eastern District of New York.

--Additional reporting by Andrew Karpan and Dani Kass. Editing by Andrew Cohen.

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