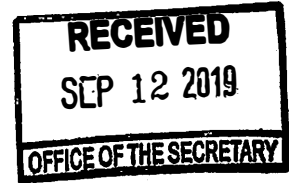


**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**



**Admin Proc. File No. 3-19242**

IN THE MATTER OF	:	
Apotheca Biosciences Inc.	:	REPLY OF APOTHECA BIOSCIENCES
File No. 500-1	:	PER ORDER OF THE COMMISSION

APOTHECA BIOSCIENCES, INC. (Petitioner), through the undersigned counsel, pursuant to the Order of the Commission, hereby files this Reply Brief in Support of the Petition to Vacate or otherwise remove the trading halt entered by the Commission on June 28, 2019. The Petitioner further states:

1. The Petitioner, Apotheca, hereby presents that the evidence in the form of exhibits, including those in the initial brief being Exhibits A and B, are authentic and accurate. See Affidavit of P.C. Sundarwaran on behalf of Apotheca. In this affidavit, Mr. P.C. Sundarwaran clearly attests that all of the representations made by the Company in the press releases which the SEC uses as its exhibits (See SEC Exhibits 1 through 7) were true and accurate at the time they were made. In other words, the Petitioner has now shown that all of the allegations in regard to the press releases were in fact true.

2. The Commission relies on its ability to merely come to an opinion that a trading halt is necessary and seems to rely on some theory that such an opinion need not be based on any facts being presented.

3. What is at issue is that the Commission takes the position that it can simply fall back on the legal theory that they are enacted by congress to enter a temporary trading suspension simply based on their "opinion" that the public interest would be served by entering such a suspension.

The whole operation of decision making in this case works on the theory that the Commission had the right to make such a decision which it justifies as an “opinion,” under its findings that a temporary suspension of trading is in the public interest. *Bravo Enters.*, Exchange Act Release No. 75775, 2015 WL 5047983, at \*3.

4. The Commission relies upon its sanctioned ability to make an “opinion” to take such an action, but nowhere does it cite any evidentiary support that it relies upon for such opinion to be formed. The definition of an opinion in the legal realm has a great degree of deference, when it is based on fact.

5. Since the Commission does not provide a definition of what an “opinion” is, a search of legal authorities shows that an opinion is defined by authority as being based in fact. The situation here is that no such “fact” which the Commission can draw from has been produced in its response.

6. Without any cited case by the Commission defining how an “opinion” can be made, we therefore have to rely upon the legal definition of an “opinion” from other sources. Normally, an “Opinion” in legal terms is the finding of a body of adjudicative authority, which draws on a certain set of facts and assumptions, from which it can conclude certain end conclusions of events or findings which formulates its opinion. The Commission merely relies on the language of Section 12(k)(1) of the Exchange Act which that “[i]f in its *opinion* the public interest and the protection of investors so require, the Commission is authorized by order . . . summarily to suspend trading in any security” for up to ten business days. (Citing 15 U.S.C. § 78l(k)(1)).

7. However the proof that is brought forward by the Commission in its reply, is simply the press releases of Apotheca itself, and does not cite any evidence at all of what it alleged in the affidavit of P.C. Sundarwaran bringing the evidence and exhibits produced into the realm of real proof, which was more than discoverable by the Commission, had they merely not relied upon

making leaps of assumptions in what it concludes is an “opinion” and therefore completely justified.

8. Black’s Law Dictionary defines an “Opinion as:

1. In the law of evidence, opinion is an inference or conclusion drawn by a witness from facts some of which are known to him and others assumed, or drawn from facts which, though lending probability to the inference, do not evolve it by a process of absolutely necessary reasoning. See *Lipscomb v. State*, 75 Miss. 559, 23 South. 210. An inference necessarily involving certain facts may be stated without the facts, the inference being an equivalent to a specification of the facts; but, when the facts are not necessarily involved in the inference (e. g., when the inference may be sustained upon either of several distinct phases of fact, neither of which it necessarily involves.) then the facts must be stated. *Whart. Ev.*

9. On August 2019, the Commission insinuated that the Nano Creaciones is non-existing entity with no website or patents in the following statement:

.... Nano does not have a website and there are no patents or patents pending held by Nano according to the U.. Patent and Trademark Office's database. The Commission staff's internet searches did not identify any information about Nano. As of June 2019, Apotheca has not publicized further news regarding Nano....

10. After Apotheca’s Brief of August 14, 2019 providing substantial proof of the contract with Nano and their Patents, the Commission has changed its insinuation from non-existent company/deal/Patent to inadequate information, making purported assumption on the Patents or the deal itself (as a business practices or viability) without any proof cited of any such facts. If the Company’s suspension is due to a distribution of a false press release on a non-existent transaction with a non-existent company/patents or as the Commission’s recent assertion that it was due to “inadequate information” then the Commission was completely defeated in this argument by a simple search of the internet to find Nano Creaciones S.A. as a company.

11. Such a finding does not comport with even creating an opinion as defined. An opinion, as normally used in the context of the legal authority of the Black's Law Dictionary value, relies upon "finding" of the Commission for such an action. No such finding exists here. The Commission does not cite any evidence which is backed by any credible formulation of logic based upon any type of investigation of the facts which underly their conclusion. In other words, they did nothing, as alleged in the initial brief, and as shown in the lack of evidence presented by the Commission.

12. The press release dated Nov. 06, 2018, Apotheca was very clear with the following statement;

Apotheca Biosciences ... is pleased to announce the intent to purchase Nano Creaciones S.A. P.I. de D.V. Research LLC ("Nano"). The press release makes it very clear the intent and the purpose of the transaction acquiring a company like Nano (paragraph 2, 3) with their current product line and its complimentary to Apotheca's CBD product line. Having non-US Patents are not relevant since as the Commission may not be aware of, the reason and purpose of acquiring a foreign company is to do business in that foreign company. But unfortunately, here, the Commission is making comments on the Company's business practices that goes well beyond its mandate.

(See Exhibit 1, by SEC)

13. The Commission keeps using the term "purported" although we have provided ample evidence of the application with the OTC Markets. Making the statement "corrective disclosure after trading suspension supports need for trading suspension" is a selective justification without any legal basis which if used in general will result in the suspension of the majority of the publicly traded companies. As pointed out in our press release November 12, 2019, we made it clear that "The application process will not guarantee acceptance of Company's application by OTCMARKETS from the PINKS to OTCQB". The "Forward-Looking Statements" in press releases attests to the same fact (When used in this press release, the words "plan," "expect," "believe," and similar expressions generally identify forward-looking statements. These statements

reflect our current expectations. They are subject to a number of risks and uncertainties). Per our August 14, 2019 Brief the Company decided to refile the application soon thereafter within the six months waiting time or on June 2019.

14. The Commission contends that Apotheca in its press release of December 10, 2018 contained inaccurate and misleading information regarding its prospects. Indeed, the press release, as declared under the Affidavit of P.C. Sundarwaran, was true and correct. Apotheca Earth not only had the products as shown in the Apotheca Exhibit B, but also had the ability to fulfill product orders. The allegation that Apotheca did not have such product, or ability to fulfill orders by Anderson in the affidavit, is not only false, but is just another example of the complete failure of the Commission to do any diligence whatsoever. Therefore, the Commission cannot form an opinion that the press release was misleading and inaccurate. The Commission nearly defeats itself when it cites substantial cash being available for product placement orders to start. The mere existence of liabilities does not prove an inability of a company to perform on its business. (Anderson Aff., 7.)

15. The Commission here again purports that the Company has “mocked up boxes of goods” to fool the Commission, this investigation and its participants. Per our previous response dated August 14, 2019, the Company provided ample evidence on the existence of Apotheca Earth and the DAVA product line which now the Commission having seen the evidence purports that such are nothing but fakeries and mocked up boxes.

16. But unfortunately, again, here, the Commission is making comments on the Company’s business practices that goes well beyond its mandate. The Commission has or had no insight on the short- and long-term plan of the Company, its business plan and its fund-raising abilities. Contrasting the Commission’s comments and understanding, the Company did raise

adequate funds to “roll[] out any new products” such as Promedcbd.com. The DAVA line has been in existence since 2016-2017 and the product line by Apotheca Earth is owned entirely by Apotheca biosciences. In contrary to the Commission’s statements, the Company has been selling DAVA brand for years and its new Promed CBD brand since April 2019. To negate any foolery implications here, the Company has attached (real) pictures of the DAVA product line to this response AS Exhibit C. Promed CBD product lines can be seen at promedcbd.com.

17. What the Commission could have done, in order to more fully formulate its “opinion” was not just contact the Company, but could have placed an order for such product. If it had placed such an order it would have been fulfilled, but clearly informed itself in order to make a factually based opinion. It failed to do so, thus it made its decision on an opinion that a trading suspension was appropriate based upon false assumptions.

18. The Commission alleges that Apotheca’s press releases regarding ProMed product contained inaccurate and misleading information. (SEC Brief, 10). The Commission attempts to again put words in the Company’s mouth where they assert that:

“Apotheca admits, that contrary to representations in its April 1, 2019 press release, it lacked actual orders because of "lack of timely inventory and terms." (Apotheca Brief, 20.) Moreover, Apotheca also admits that contrary to its April 23, 2019 press release stating that it was shipping product, that it lacked a viable plan to sell ProMed and no product had been shipped. (Citing Apotheca Brief, 20.)

19. Contrary to the Commissions’ comment, per the Company’s previous response initial brief of August 14, 2019, Company never said “that it lacked a viable plan to sell ProMed and no product had been shipped”. (Apotheca Brief, 20). The Company also never said “that it lacked actual orders because of "lack of timely inventory and terms.". The Commission’s naked unsupported assertion here is mainly due to lack of understanding of business practices and the meaning of “lack of timely inventory and terms”. The deal with the prospect fell through at that junction due to terms of payment by the buyer and the requested inventory turnaround time.

Unfortunately, the Commission is making comments on the Company's business practices that goes well beyond its mandate. The press release is not by any means outside the scope of thousands of small cap companies' daily announcements of potential revenues and customers. In contrast to the Commission's opinion here, the Company and its products are doing fine and there exists an ongoing "viable plan" selling to hundreds of businesses across the United States. We are willing to send sample of our products as requested.

20. The Commission alleges that Apotheca's Press Release Regarding its CEO, PC Sundareswaran (Sundar) was "at Minimum Incomplete." (SEC Brief at 10). PC Sundareswaran is well known in his industry and we provided adequate information on his background and his position at the company. We are very confused and frustrated at the Commission's constant changing assumptions and assertions. Shifting stance by the Commission is very disheartening since it's hard to ascertain what is acceptable as adequate information due to their shifting position. On August 6th, 2019, the Commission asserted that Mr. PC Sundareswaran has a non-existent position at Abbots Labs and Bayer and even questioned his existence as if the Company has released false information on a non-existent individual with non-existent pharmaceutical background.

21. The Commission seems to posit that if a person does not have a LinkedIn page to verify their previous employment, it only proves that such employment was non-existent. How would this logic correlates to LinkedIn prior to its existence? The Company has done extensive background check on Mr. Sundar and found him to be outmost character and competency. Having no LinkedIn account does not denote lack of existence. The Company likes to know what deems accurate or adequate information in regard to an announcement of a CEO.

22. Unfortunately, again, here, the Commission is making comments on the Company's business practices that goes well beyond its mandate. Mr. Sundar has been involved with the Company in many aspects for the last 4 years and his fact is well known by its shareholders and affiliates. These facts would have clearly known is the Commission would have spent and time or effort verifying their allegations.

23. Finally, in regard to this issue, the Commission was in direct possession of information that Mr. Sundar not only existed, but was in charge of the Company, since Mr. Sundar signed at least one Form 8-K as PC Sundar. June 21, 2019 Apotheca Form 8-K Regarding Hemp Science. (See <https://www.sec.gov/Archives/edgar/data/1632053/000163205319000004/8k.purchase.hemp.bloom.62I19.htm>).

24. The Commission sets forth that it has the ability to suspend trading, the Commission attempts to put words in the Company's mouth by stating that Apotheca may have conceded that suspicious trading in its security may have occurred. (SEC Brief, 10-11). This is not relevant to the question of whether the Commission had any grounds to suspend trading, where the Commission presented no evidence in the form of factual basis that suspicious trading even occurred. The affidavit by Anderson is nothing more that conclusions, with no actual evidence of the suspicious trading. There are no trading records, no daily or other comparisons, or any records are presented.

25. The Commission argues the "argument is irrelevant" because the Commission has suspended trading in situations where the conduct is not connected to the issuer if "the conduct threatens a fair and orderly marketplace." Citing Efuel, 2019 WL 2903941, \*5 (internal quotation excluded). However, the Commission cites no actual evidence of market manipulation, and



certainly none during the current times to present any factual basis to arrive at such questions as to the marketplace activity.

26. What is more than apparent is that the Commission is making no argument or presentation of fact that they had any evidence of cold calling which they originally alleged. Nowhere in the affidavits presented or the evidence that there actually was any cold calling being made. This is not even just a rumor but is a non-existent unsourced allegation.

### CONCLUSION

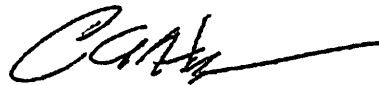
The action of the Commission staff in imposing the trading halt was unsupported by any degree of evidence at all that would support even an opinion that a trading halt was necessary in order to protect the public. While the Commission is granted great latitude to come to an opinion, the conclusion of such an opinion cannot be made where the Commission simply ignores existing facts that were readily ascertainable, all of which would have made such an opinion an opposite conclusion. Apotheca here, and in its exhibits, and declaration has shown that all of the contentions related to its press releases by the Commission were false.

Further, the representations of conclusory allegations of market activity is unsupported by any actual presented evidence by which the Commission could create an opinion that a trading halt was necessary. Without any evidence that trading activity was suspicious at any time which is relevant, meaning any time recently, then there were no facts which would support a trading halt now, as opposed to being in the past, which is the only bare allegation that was made.

Due to the lack of any evidence being presented to support even the broad discretion of the Commission, the trading halt should be vacated, or some other remedy that places the Company in the standing it was in before the trading halt.

Done this 10<sup>th</sup> day of September 2019.

Respectfully submitted,



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Florida Bar Number 116149  
Email: Craig@securuslawgroup.com  
Attorney for Petitioner

#### CERTIFICATE OF SERVICE

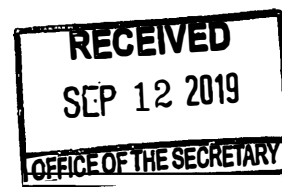
I HEREBY CERTIFY that on September 10, 2019, the undersigned counsel did cause to be file with the Commission, with service upon the Commissioner, at the address of 100 F. Street, N.E. Washington, D.C. 20549 via UPS Next Day Air Delivery under tracking number *1Z T29CV9A2 2001 4414* and to the Division of Enforcement, ATTN Deena Bernstein, Esq., U.S. Securities and Exchange Commission, 33 Arch Street, 24<sup>th</sup> Floor, Boston, MA 02110 via UPS Next Day Air Delivery under tracking number *1Z T29D2K01 2001 8417*



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Craig A. Huffman, Esquire

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



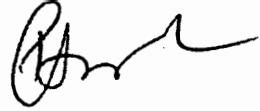
In the Matter of  
APOTHECA BIOSCIENCES INC.

Administrative  
Proceeding File  
No. 3-19242

**AFFIDAVIT OF P.C. SUNDARESWARAN**

I, P.C. Sundarwaran, hereby swear:

1. I am a Co-Founder and former CEO of Apotheca Biosciences Inc. ("Apotheca") and was employed by the Apotheca Biosciences Inc. as its CEO since 2018. I was CEO during all pertinent times involved.
2. I submit this Affidavit in conjunction with the Apotheca Biosciences Inc.'s Reply Brief to the Division's Answer Brief, dated September 3, 2019. Such affidavit is presented in support of Apotheca Biosciences Inc.'s ("Apotheca") Petition to Terminate the Trading Suspension in In the Matter of Apotheca Biosciences Inc.
3. I have examined all of the exhibits provided by the SEC in support of their action, including the Press releases, numbered 1 through 7 which were press releases issued by Apotheca.
4. All of the representations made by Apotheca in such press releases were true and correct at the time they were made.
5. I also attest that Exhibits A and Exhibit B as attached to the initial brief of Apotheca are true and accurate depictions of products and business web site as represented.
6. Attached as Exhibit C are pictures of DAVA products in their actual state.



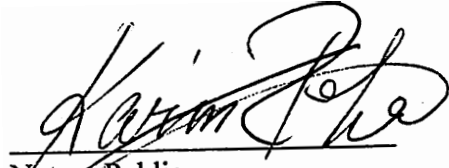
Dated:

\_\_\_\_\_  
P.C. Sundarwaran

On 9/10, 2019, PC SUNDARESWARAN a person known to me personally appeared before me and swore under oath the foregoing Affidavit.



KARIN ROHRET  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG178620  
Expires 2/28/2022



\_\_\_\_\_  
Notary Public  
Commission Expires

# EXHIBIT C



**TINCTURE**

SUPPORT

400 mg CBD

DAVA™

*Apotheca Earth*

0.67 FL OZ (20 ml)



**TINCTURE**

**SUPPORT**

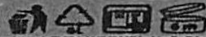
**400 mg CBD**

**DAVA™**

*Apotheca Earth*

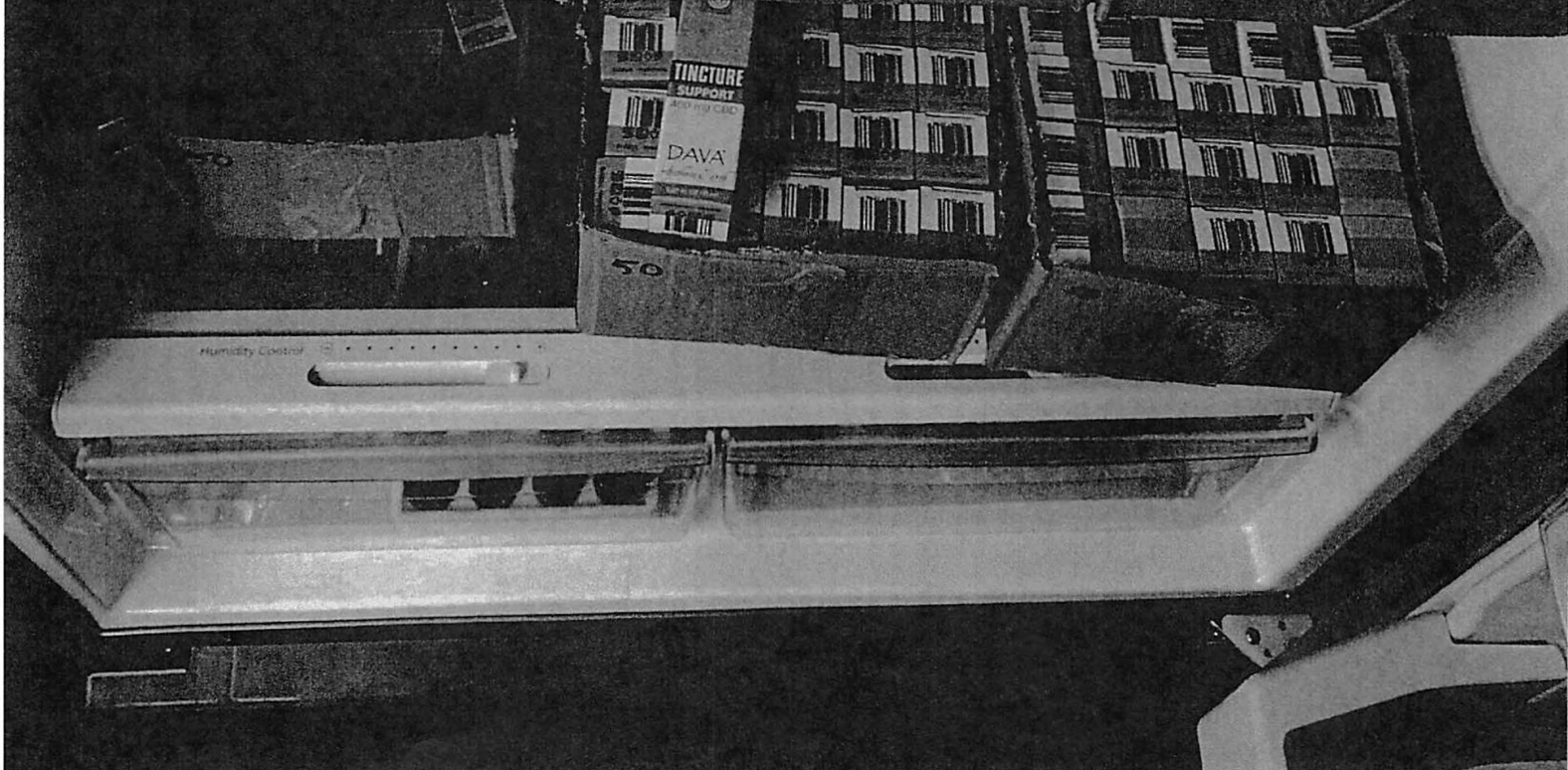
0.67 FL OZ (20 ml)

Best before: 11/2018










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**TINCTURE**  
SUPPORT  
400 mg CBD  
  
DAVA<sup>®</sup>  
*Apotheca Earth*  
2 FL OZ (59 ml)

  
**TINCTURE**  
SUPPORT  
Fortifying  
CBD blend  
  
Apotheca Earth  
St. Petersburg, FL  
Imported from EU  
2 FL OZ (59 ml)

  
**TINCTURE**  
SUPPORT  
400 mg CBD  
  
DAVA<sup>®</sup>  
*Apotheca Earth*  
2 FL OZ (59 ml)



