

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING

File No. 3- 22027

In the Matter of

IMPAX LABORATORIES, LLC,

Respondent.

THE DIVISION OF ENFORCEMENT’S
BRIEF PURSUANT TO THE COMMISSION’S MAY 1, 2025 ORDER

The Division of Enforcement (“Division”) hereby files this brief pursuant to the May 1, 2025 Order issued by the Securities and Exchange Commission (“Commission”). The Division respectfully submits that Respondent Impax Laboratories, LLC f/k/a Impax Laboratories, Inc. has a class of securities registered with the Commission under Section 12 of the Securities Exchange Act of 1934 (“Exchange Act”).

I. FACTS

In 2009, the common stock of what was then Impax Laboratories, Inc. (“Impax Inc.”) was registered with the Commission under Section 12(g) of the Exchange Act.¹ On May 4, 2018,

¹ See Impax October 10, 2008 Form 10-12G at <https://www.sec.gov/Archives/edgar/data/1003642/000089322008002713/w67239e10v12g.htm>

Impax, Inc. converted to a limited liability company (“Impax LLC”).² Although the common stock of Impax Inc. was cancelled, Impax LLC reported to the Commission that it had assumed the registration and reporting obligations of Impax Inc. under 17 C.F.R. 240.12.g-3.³ Pursuant to that regulation, the securities of successor entities are deemed to have the same registration as predecessor entities under certain circumstances. Impax LLC further acknowledged that: (1) it was still “subject to the informational requirements of the [Exchange Act];” (2) its Section 12(g) reporting obligations would continue unless it filed a Form 15 with the Commission terminating the Section 12(g) registration; and (3) it intended to file a Form 15.⁴ Impax LLC never filed a Form 15.⁵

II. ARGUMENT

In its May 1, 2025 Order, the Commission asked whether Impax LLC has a class of securities registered under Exchange Act Section 12(g) given the cancellation of Impax Inc.’s common stock. It does.

“[T]here are only two ways to terminate the registration of a class of securities registered under Section 12(g) of the Exchange Act.” *See Golden Oil Co.*, Exchange Act Release No. 430, 2011 WL 4001029, *4 (Sept. 9, 2011) (Mahony, ALJ) (adopting the Division of Enforcement’s

² *See* Impax May 7, 2018 Form 8-K at <https://www.sec.gov/Archives/edgar/data/1003642/000119312518153631/d571001d8k.htm> and Amneal Pharmaceuticals Inc. Form 10-K for the Fiscal Year Ended December 31, 2019 at Item 1 at https://www.sec.gov/ix?doc=/Archives/edgar/data/1723128/000156459020008179/amrx-0k_20191231.htm.

³ *See* Impax Form 8-K at Introductory Note.

⁴ *See* Impax 8-K at Introductory Note and Item 3.01. Although Impax also had reporting obligations as an Exchange Act Section 12(b) registrant, those obligations terminated on May 14, 2018. That is because NASDAQ filed a Form 25 on May 4, 2018 notifying the Commission that Impax securities had been delisted and delisting terminates a Section 12(b) registration. *See* 17 CFR § 240.12d2-2(d)(1) (delisting notice terminates Section 12(b) registration ten days after filing). *See also* Impax Form 8-K at Item 3.01 (NASDAQ Form 25 filing).

⁵ *See* EDGAR Filing History for Impax at <https://www.sec.gov/edgar/browse/?CIK=1003642>.

argument), *consent revocation order issued* at Exchange Act Release No. 65559 (October 14, 2011). Under the first method, an issuer can file a Form 15 certifying that the number of shareholders does not exceed the applicable threshold:

Registration of any class of security pursuant to this subsection shall be terminated ninety days, or such shorter period as the Commission may determine, after the issuer files a certification with the Commission that the number of holders of record of such class of security is reduced to less than 300 persons[.]

15 U.S.C. § 171(g)(4). *See also* 17 C.F.R. § 240.12g-4 (certification is made on Form 15; threshold is 500 persons under certain circumstances). The purpose of the Form 15 is, among other things, to provide notice to investors of the planned termination and an opportunity to object on grounds that the certification is untrue:

The Commission shall after notice and opportunity for hearing deny termination of registration if it finds that the certification is untrue. Termination of registration shall be deferred pending final determination on the question of denial.

15 U.S.C. § 171(g)(4).

The only other method for terminating a Section 12(g) registration is a revocation order issued by the Commission through a Section 12(j) proceeding; the cancellation of stock does not terminate registration. *See Golden Oil Co.*, 2011 WL 4001029 at *4. In *Golden Oil*, an SEC Administrative Law Judge rejected an issuer's argument that a bankruptcy court order cancelling the issuer's stock automatically cancelled the stock's Section 12(g) registration, thus mooted the Division's Section 12(j) proceeding. As the Administrative Law Judge explained, Respondent's "registration was unaffected by the Bankruptcy Order" [and] "a proceeding under Section 12(j) of the Exchange Act is proper because Respondent has failed to comply with the periodic filing obligations[.]" *Id.*

Similarly, here, the cancellation of Impax Inc.'s common stock did not cancel its Section 12(g) registration, which was assumed by Impax LLC. Because Impax LLC did not file a Form 15 and no Section 12(j) revocation order has issued, its Section 12(g) registration persists.

CONCLUSION

For the reasons set forth above, Respondent has a class of securities registered under Section 12 of the Exchange Act. The Commission should revoke the registration pursuant to Impax's Offer of Settlement, which will be separately submitted to the Commission for approval.

Dated: July 24, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of this paper to be served on the Respondent on July 24, 2025, via email at the address listed below:

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