Athenex – Bonus Round
Buffalo Soldiers vs the system, and a summary of Viceroy’s reports this week.

October 25, 2019 – This report serves as a summary to Viceroy’s work over this week, alongside data we have collated on Athenex’s dealing with the NY State Government.

The Buffalo Billion is a commitment to the Buffalo, NY area to create jobs, spur investment and promote economic activity\(^1\). The ambitious plan was committed to by New York governor Andrew Cuomo and first announced in the 2012 “State of the State” address.

The company’s response to Viceroy’s research is a further slap in the face to investors: \textit{the company has failed to address a single issue highlighted in any of our reports}:

\begin{itemize}
  \item \textbf{Where are the purported “inaccuracies” in Viceroy’s reports?}
  \item Did management/directors transactions, netting Directors millions of dollars of shareholder capital, not occur?
  \item Were Athenex’s management team not involved in Sino Forest, Suntech, GCL Silicon/Poly, China Lumena?
  \item Are Athenex’s Oraxol clinical studies using the current USA standard of care for its control base? If not, how can this ever be commercial?
\end{itemize}

Athenex has called out Viceroy as inaccurate, but have failed to identify a single inaccuracy in any of our reports. Viceroy remains short Athenex with high conviction. The number of red flags uncovered within the business and management team surpass any other company we have previously analyzed purely within data sourced from the public domain.

\textbf{We reiterate our target price of US$2.83, now representing a 75% downside, and will continue to keep investors informed through further reporting.}

We conclude that Athenex exists to abuse capital markets and enrich its management through related party transactions and licensing deals rather than bring revolutionary drugs into the market. This activity is carried out through overpromising the prospects of its flagship drug Oraxol and its purported “supply-chain” businesses like Polymed.

Athenex is a perfect storm of investor deception, insider enrichment and clinical trial risks. Investors should demand a full investigation of the issues discussed within this report: we are confident there is more to this story given how much was available purely through the public domain.

\textit{In light of the data Viceroy have presented, shareholders must question managements’ corporate governance and protect their rights through independent investigations.}

Report 1:
https://viceroyresearch.org/2019/10/22/athenex-too-little-too-late/

Report 2:

Report 3:
https://viceroyresearch.org/2019/10/24/athenex-no-integrity/

\(^1\) https://buffalobillion.ny.gov/about-buffalo-billion

Viceroy Research Group
Attention: Whistleblowers

Viceroy Research Group encourages any parties with information pertaining to misconduct within Athenex, its affiliates, or any other entity to file a report with the appropriate regulatory body.

We also understand first-hand the retaliation whistleblowers sometimes face for championing these issues. Where possible, Viceroy is happy to act as intermediaries in providing information to regulators and reporting information in the public interest in order to protect the identities of whistleblowers.

You can contact the Viceroy team via email on viceroy@viceroyresearch.com.

About Viceroy

Viceroy Research is an investigative financial research group. As global markets become increasingly opaque and complex—and traditional gatekeepers and safeguards often compromised—investors and shareholders are at greater risk than ever of being misled or uninformed by public companies and their promoters and sponsors. Our mission is to sift fact from fiction and encourage greater management accountability through transparency in reporting and disclosure by public companies and overall improve the quality of global capital markets.

Important Disclaimer – Please read before continuing

This report has been prepared for educational purposes only and expresses our opinions. This report and any statements made in connection with it are the authors' opinions, which have been based upon publicly available facts, field research, information, and analysis through our due diligence process, and are not statements of fact. All expressions of opinion are subject to change without notice, and we do not undertake to update or supplement any reports or any of the information, analysis and opinion contained in them. We believe that the publication of our opinions about public companies that we research is in the public interest. We are entitled to our opinions and to the right to express such opinions in a public forum. You can access any information or evidence cited in this report or that we relied on to write this report from information in the public domain.

To the best of our ability and belief, all information contained herein is accurate and reliable, and has been obtained from public sources we believe to be accurate and reliable, and who are not insiders or connected persons of the stock covered herein or who may otherwise owe any fiduciary duty or duty of confidentiality to the issuer. We have a good-faith belief in everything we write; however, all such information is presented “as is,” without warranty of any kind—whether express or implied.

In no event will we be liable for any direct or indirect trading losses caused by any information available on this report. Think critically about our opinions and do your own research and analysis before making any investment decisions. We are not registered as an investment advisor in any jurisdiction. By downloading, reading or otherwise using this report, you agree to do your own research and due diligence before making any investment decision with respect to securities discussed herein, and by doing so, you represent to us that you have sufficient investment sophistication to critically assess the information, analysis and opinions in this report. You should seek the advice of a security professional regarding your stock transactions.

This document or any information herein should not be interpreted as an offer, a solicitation of an offer, invitation, marketing of services or products, advertisement, inducement, or representation of any kind, nor as investment advice or a recommendation to buy or sell any investment products or to make any type of investment, or as an opinion on the merits or otherwise of any particular investment or investment strategy.

Any examples or interpretations of investments and investment strategies or trade ideas are intended for illustrative and educational purposes only and are not indicative of the historical or future performance or the chances of success of any particular investment and/or strategy. As of the publication date of this report, you should assume that the authors have a direct or indirect interest/position in all stocks (and/or options, swaps, and other derivative securities related to the stock) and bonds covered herein, and therefore stand to realize monetary gains in the event that the price of either declines.

The authors may continue transacting directly and/or indirectly in the securities of issuers covered on this report for an indefinite period and may be long, short, or neutral at any time hereafter regardless of their initial recommendation.
Bonus Round – Buffalo Soldiers

The Buffalo Billion is a US$1B commitment to the Buffalo, NY area to create jobs, spur investment and promote economic activity\(^2\). The ambitious plan was committed to by New York governor Andrew Cuomo and first announced in the 2012 “State of the State” address.

Athenex has received assistance from the program, with certain conditions which are laid out in the company’s annual filings. The company agreed to maintain its headquarters at Coventus for rent equal to 35% of the operating costs for the space for a 10-year term.

The company also committed to the construction of a manufacturing facility in Dunkirk New York, the cost of which will be funded from the Buffalo Billions program up to US$200m. In exchange Athenex has committed to US$1.52B in operational expenses over a 10-year term but will not own the facility or equipment.

\[
\text{This commitment, in itself, is ridiculous given Athenex burns >$100m a year in cash and cannot feasibly fulfil.}
\]

Due to endemic corruption and embezzlement in the Buffalo Billions program, work has slowed or stopped. In an article published August 31, 2016 by the Buffalo News it was revealed that while work on the Dunkirk plant had not officially stopped, supplies and equipment for the site were not being delivered.

\[\text{‘Uncertainty’ on payments}\]

“While work never officially stopped, equipment and other necessary items were not purchased because of the uncertainty of the payments,” Schuler said.

Empire State Development said the $25 million for the Coventus project was approved by its board in February 2016, and by the Public Authorities Control Board in March.

The payments had to flow through additional layers of approval, including Empire State Development staff and, in a new wrinkle, Guidepost Solutions’ Bart M. Schwartz, the independent investigator hired by the Cuomo administration to investigate the Buffalo Billion program, officials said.

A payment approval process that once was measured in weeks now has become months. “It’s not clear to us where the logjams are,” Beseecher said.

\[\text{Figure XX Athenex projects hit roadblocks in Buffalo, Dunkirk – The Buffalo News}\]

\(^2\) https://buffalobillion.ny.gov/about-buffalo-billion

Viceroy Research Group
This tightening of the governmental purse strings is a reaction to the graft that occurred between state officials, bidders and contractors. Top state aid, Joe Percoco, was convicted in 2018 of bribery and wire fraud in relation to bribery in the states contract bidding process\(^3\). The New York Post wrote that the program was beyond corrupt on revelations that “nanotech czar” Alain Kaloyeros had charges of bid-rigging brought against him.

Other “state of the art” projects who have received “grants” from the Buffalo Billions project include Solar City (pre-acquisition). The plant opened in 2017 after several hold ups, and cash-strapped Tesla have rattled state officials with its inability to deliver employment promises it made in exchange for US$750m in subsidies.

The program has largely been viewed as a failure with regards to the job creation and economic expansion promises. Recent coverage makes it unlikely that the program will continue. At this stage it is uncertain if Athenex will be able to complete its Dunkirk plant by relying on further assistance from the State of New York.

The effect on Athenex is significant. As we pointed out in our previous report the company’s Chongqing factory is non-operational for reasons that are not voluntary, contrary to their claims.

For those playing at home, Viceroy have produced this handy chart to keep track of Song-Yi Zhang’s history:

<table>
<thead>
<tr>
<th>Zhang’s “Rinse-&amp;-Repeat” Bankruptcy Playbook</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exchange Listing/ Ticker</td>
</tr>
<tr>
<td>----------------------------</td>
</tr>
<tr>
<td>Operations in China?</td>
</tr>
<tr>
<td>Resulted in Bankruptcy/ Fraud?</td>
</tr>
<tr>
<td>Song-Yi Zhang as Investor?</td>
</tr>
<tr>
<td>Song-Yi Zhang as Board Member?</td>
</tr>
<tr>
<td>Use of Related Parties in business dealings?</td>
</tr>
<tr>
<td>Acquisition of Financially Struggling Related Parties?</td>
</tr>
<tr>
<td>Received Subsidies or Govt Economic Incentives?</td>
</tr>
<tr>
<td>Lead Investment Banker(s)?</td>
</tr>
</tbody>
</table>

A summary/conclusion

Management – A Company of Rogues

- Several members of Athenex’s management team have a history of what appears to be either gross incompetence in fiduciary duties or clever mismanagement in infamous frauds internationally, collectively resulting in billions of dollars of write-offs including Sino Forest, Suntech, GCL Silicon/Poly, and China Lumena.

- Associates of former director and key Athenex figure Song-Yi Zhang in previous shady ventures are now embedded in the Athenex organization including the Audit committee.
  - Athenex Audit Committee member John Koh was also a director of several investment vehicles of Song-Yi Zhang, with direct fiduciary obligation to oversee Sino Forest.

- Athenex directors have acted as onsellers and drop-shippers to rip off Athenex shareholders with margin-stealing exercises through their investment entity: Avalon Global. Cash has consistently exited the business via similar related-party deals.

- Breaches in corporate governance principles: Athenex directors screwed investors by purchasing CDE for themselves and flipping it to Athenex for a 262% profit in 6 weeks. The company failed to report the circumstances of the transaction in any meaningful way.

- In another instance, Directors pocketed a 3,300% profit by flipping an “anti-cancer mechanism” license to Athenex for US$5m, for which they paid just US$150,000 just 6 months earlier.

- Directors award themselves millions of dollars worth of stock at no cost through the issuance of promissory notes that are cancelled on a time-vested basis.

- Athenex directors have an uncanny ability to avoid any disclosure or reference to their involvement in historical fraud or related party deals. It’s Viceroy’s view that if investors were aware, they would not have bought Athenex in the first place.

- Athenex’s CFO J. Nick Riehle left unexpectedly for a “planned” retirement, just 10 months after joining the company but is now seeking work as a consultant.

- Our investigations have found ties between Athenex subsidiary Polymed and its management team to the largest taxol smuggling ring in history, Yunnan Hande, which resulted in 50 arrests and 32 imprisonments. Taxol is a key ingredient in anti-cancer drug paclitaxel and its harvesting is heavily controlled.

- William Zuo, President of China Operations appears to have been the US liaison of the taxol smuggling ring mentioned above. Athenex, through Polymed, appears to employ Xiaojin Wu Li an investor in Yunnan Hande and sister to its jailed chairman.

Oraxol – Flagship or Shipwreck?

Athenex has been reliant on the marketed prospect of Oraxol in order to obtain access to capital, having received going concern qualifications from Deloitte since 2016 and current yearly cash-burn rates of ~$100m. The company has raised ~US$360m in equity and US$80m in debt since 2017. Even if R&D costs are removed from the equation, Athenex’s licensing and consulting segments are operationally loss-making.

- After consultation with industry specialists and oncologists, Viceroy believes Athenex’s flagship paclitaxel drug, Oraxol, cannot compete with the current standard of care available in the USA.

- Oraxol’s clinical trials control dosing regimen of IV paclitaxel as monotherapy is an outdated treatment schedule dating from the 1990’s.

- Oraxol’s marketed quality of life improvements are redundant. Patients will still require IV treatment/post-treatment, alongside gastrointestinal complications from oral treatment.
Oraxol’s side effects appear more severe than those of the current US standard of care, Abraxane, and may require hospitalization due to their life-threatening nature. Reported adverse effects grade 4 neutropenia, grade 3 vomiting and unspecified GI complications were more severe than the IV paclitaxel group.

None of Oraxol’s clinical trials have included a US patient component. While the FDA does allow data overseas trials, these results are treated with much higher scrutiny. Viceroy believe ATNX studies are being conducted in South America due to a lower local standard of care: US patients could not be enticed to trial a drug against an outdated active control regimen.

Athenex’s Orascovery program – key to its marketed value proposition – was purchased for just US$7.5m upfront in 2011 after its previous owner experienced decade-long development delays with little headway into development. The Orascovery platform is busted.

Through consultation with experts, we believe Athenex’s pursuit of the 505b(2) pathway for Oraxol will be hampered by the fact that its paclitaxel delivery mechanism, HM30181A, has never been approved by the FDA. The FDA may require Athenex to pursue a further NDA for HM30181A.

Viceroy have identified what we believe to be Intellectual Property Theft from UK company Immunocore. XLifeSc’s flagship technology (in which ATNX put US$35m upfront) may already be owned by GSK and further along the development pipeline: GSK’s solution is currently undergoing phase 2 trials in the US.

With a BONUS round of issues in Buffalo where Athenex issues are mired with State issues of fraud and corruption. Although Athenex won’t find that being an issue, as investors can see with Viceroy’s Zhang’s “Rinse-&-Repeat” Bankruptcy Playbook.”

Factory Shutdown

An investigation into Chinese regulatory notes from the Ministry of Emergency Management and Polymed’s history of objectionable site inspections by Chinese regulators and the FDA lead us to believe that Polymed’s manufacturing facility suspension not voluntary. In any event, Athenex’s Chongqing manufacturing facility does not manufacture anything.

Viceroy dismantles photoshopped Polymed advertisements for its facilities and expose chemical manufacturing facilities we believe are non-existent or outsourced.

Collectively, our research, informed by discussions with industry specialists, leads us to believe that Athenex’s Oraxol is obsolete in modern world medicine. Athenex claims to “take pride” in the integrity of its management team. This same management team has overseen the evaporation of billions of dollars from shareholder capital in past ventures.

We reiterate our belief that Athenex exists to abuse capital markets and enrich its management through related party transactions and licensing deals rather than bring revolutionary drugs into the market.

Viceroy value ATNX stock at US$2.83 – a 71% downside – the sum of its tangible book value and 1x valuation on its licensing & consulting revenue streams, for the year ending June 30, 2019. With ATNX’s questionable license acquisitions and management’s precedent for overstated top line figures in previous ventures: this is optimistic.