



Office of Commissioner
Melissa Holyoak

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Statement on the Recusal of Commissioner Melissa Holyoak
*In the Matter of Caremark, Rx, LLC, FTC Docket No. 9437***

April 4, 2025

As Solicitor General of Utah, I managed and participated in the State of Utah’s lawsuit against insulin manufacturers (Eli Lilly, Novo Nordisk, and Sanofi) and pharmacy benefit managers (CVS Caremark, Express Scripts, and OptumRx) for their involvement in an insulin pricing scheme that harmed hundreds of thousands of Utah residents and their families.¹ In September 2024, the FTC voted to initiate administrative litigation against the same three PBMs for similar conduct involving insulin drug prices.² Unfortunately, I was unable to participate in the FTC’s PBM matter; I elected to recuse myself from that Commission vote based upon federal ethics guidelines.³

I share Chairman Ferguson’s sentiment that federal ethics guidelines are a bedrock of our justice system.⁴ My prior involvement in the Utah litigation, however, is factually distinct from the Chairman’s circumstances,⁵ and those differences require a different outcome here. Based upon my reading of federal ethics guidelines, and guidance from the FTC’s Designated Agency Ethics Official, I will continue to recuse myself from the FTC’s administrative litigation against PBMs since it is substantially related to the Utah litigation that I handled in my capacity as Solicitor General of Utah.

¹ See Compl., *State of Utah v. Eli Lilly & Co., et al.*, No. 230908750 (3d Jud. Dist. Nov. 16, 2023); Press Release, *Utah Attorney General, Division of Consumer Protection Sues Insulin Manufacturers* (Nov. 2023), <https://dcp.utah.gov/wp-content/uploads/2023/11/Insulin-Lawsuit-Press-Release-1.pdf>.

² Press Release, Fed. Trade Comm’n, *FTC Sues Prescription Drug Middlemen for Artificially Inflating Insulin Drug Prices* (Sept. 20, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-sues-prescription-drug-middlemen-artificially-inflating-insulin-drug-prices>.

³ See, e.g., 5 C.F.R. § 2635.502(a)(2); MODEL RULES OF PROF’L CONDUCT r. 1.11(d)(2)(i) and cmt. 5; U.S. Office of Government Ethics, *Guide to Drafting Nominee Ethics Agreements*, at 36 (2020) (“I understand that any authorization will not allow me to participate ... in any particular matter involving specific parties in which I previously participated as Director of the Wyoming State Police.”).

⁴ Statement of Chairman Andrew N. Ferguson, Fed. Trade Comm’n (Apr. 3, 2025).

⁵ *Id.*