February 12, 2026

Legal Counsels of:
3D WH OPPORTUNITY MASTER OFC-3D WH OPPORTUNITY HOLDING

Yoshimoto Kawamura, Attorney-at-Law
Takashi Osawa, Attorney-at-Law
Takeyuki Tonoi, Attorney-at-Law
Naruki Kai, Attorney-at-Law
Azusa Hattori, Attorney-at-Law
Mika Miyagi, Attorney-at-Law

Audit and Supervisory Committee
Toho Holdings Co., Ltd.
Chie Goto, Chairperson
Yoshiaki Kamotani, Member
Hidehito Kotani, Member
Miho Saito, Member

Notice of Reasons for Not Filing a Lawsuit

On behalf of 3D WH OPPORTUNITY MASTER OFC – 3D WH OPPORTUNITY HOLDING, you submitted to us, in our capacity as members of the Audit and Supervisory Committee of Toho Holdings Co., Ltd. (the "Company"), a written request dated December 15, 2025 (the "Request for the Lawsuit"), requesting that the Company file a lawsuit against certain of the Company's directors (including former directors and their heirs), namely Mr. Hiromi Edahiro, Mr. Akira Umada, and (omitted) (collectively, the "Requested Parties," and together with Mr. Hiromi Edahiro, Mr. Akira Umada and (omitted), the "Subject Directors").

Accordingly, in order to determine whether or not to file a lawsuit to enforce liability in connection with the Request for the Lawsuit, we conducted an investigation with the assistance of external counsel and, after carefully deliberating among the members of the Audit and Supervisory Committee based on the advice of such counsel, reached the conclusion not to file a lawsuit to enforce liability against the Requested Parties. Therefore, pursuant to Article 847, paragraph (4) of the Companies Act, we hereby notify you as follows.

I. Details of the Investigation Conducted by the Company.

1. Overview of the Investigation.
   In order to conduct an investigation to determine whether or not to file a lawsuit to enforce liability in connection with the Request for the Lawsuit (the "Investigation"), the Audit and Supervisory Committee, by resolution, appointed Chie Goto, an outside director of the Company serving as Chairperson of the Audit and Supervisory Committee and an attorney at SAKURA KYODO LAW OFFICES with expertise in corporate legal affairs, as the designated Audit and Supervisory Committee member responsible for conducting the Investigation. In addition, in conducting the Investigation, the Audit and Supervisory Committee appointed Nakamura, Tsunoda & Matsumoto, an independent law firm having no interests in common with the Company or the Subject Directors, as external advisors, and carried out the Investigation with their assistance.

2. Identification of the Matters Subject to Investigation
   The following two matters are subject to investigation as set forth in the Request for the Lawsuit.
   - TOHO PHARMACEUTICAL CO., LTD ("Toho Pharmaceutical") engaged in order coordination in connection with tenders for pharmaceutical products issued by the Japan Community Healthcare Organization ("JCHO") around early June 2016 and early June 2018, was found guilty on June 30, 2021 of violating the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade ("Antimonopoly Act"), and subsequently received a cease-and-desist order and a surcharge payment order from the Japan Fair Trade Commission (the "JFTC") on March 30, 2022 (the "JCHO Case").
   - KYUSHU TOHO CO., LTD. ("Kyushu Toho") engaged in order coordination in connection with tenders for pharmaceutical products issued by the National Hospital Organization ("NHO") during the period from no later than June 24, 2016 to November 27, 2019, and, on March 24, 2023, received a cease-and-desist order and a surcharge payment order from the JFTC for violation of the Antimonopoly Act ("NHO Case").

3. Details of Investigation and Materials Relied Upon as Basis for the Determination.
   With respect to the Request for the Lawsuit, the materials on which the Company relied as the basis for its decision are as follows.
   - With respect to the JCHO Case, given that Toho Pharmaceutical was subject to a guilty verdict in a criminal case for violation of the Antimonopoly Act, as well as a cease-and-desist order and a surcharge payment order issued by the JFTC, and, with respect to the NHO Case, given that Kyushu Toho was subject to a cease-and-desist order and a surcharge payment order issued by the JFTC, the Company relied on the facts as found in those proceedings as the basis for outlining each case, and also reviewed, as necessary, written statements and other materials from the criminal case for violation of the Antimonopoly Act in the JCHO Case.
   - Toho Pharmaceutical and Kyushu Toho each filed applications for leniency with the JFTC in connection with the JCHO Case and the NHO Case, respectively, and accordingly, the Company also reviewed, as necessary, the documents

submitted by each of those companies to the JFTC in connection with such leniency applications.

- With respect to the compliance systems concerning the Antimonopoly Act of the Company, Toho Pharmaceutical, and Kyushu Toho as they existed at the time of the JCHO Case and the NHO Case, the Company examined internal rules, organizational charts, internal newsletters, details of the internal email monitoring system, materials relating to internal approval and reporting processes, the code of ethics, internal audit materials, minutes of meetings of the Board of Directors and other various committees, as well as materials used in internal and external training programs, and also reviewed the responses provided by the Company's personnel to our inquiries regarding such compliance systems.
- With respect to the recurrence prevention measures implemented by the Company following the case in which the Company received a surcharge payment order in the amount of JPY 46.58 million from the JFTC on February 13, 2003 ("Miyagi Prefecture Cartel Case"), the Company examined internal training materials, meeting materials, the code of ethics, and other relevant documents from the period following the Miyagi Prefecture Cartel Case until the occurrence of the JCHO Case and the NHO Case, and also reviewed, together with such materials, the responses provided by the Company's personnel to our inquiries regarding the compliance systems in place at that time.
- Interviews were conducted with the directors of the Company (including former directors) named in the Request for the Lawsuit, as well as with sales personnel and other relevant employees who were in charge at the time of the occurrence of the JCHO Case and the NHO Case.

II. Determination as to Whether the Requested Parties Bear Liability and the Reasons Therefor.

1. Framework for Determining Directors' Duties to Take Necessary Measures to Prevent the Occurrence of the JCHO Case and the NHO Case.

Under the Companies Act, directors owe a duty to comply with laws and regulations (Article 355 of the Companies Act). Accordingly, where a specific violation of laws or regulations has been committed by the Company or its officers or employees, and such violation is attributable to a director due to intent or negligence, the director shall incur liability for breach of duty (Article 423, paragraph (1) of the Companies Act).

With respect to directors of a parent company, where such directors are actively involved in the formation of decision-making at a subsidiary, issues may arise concerning the duty of due care owed by the parent company's directors to the parent company. In other words, active involvement by directors of a parent company in business execution or decision-making at a subsidiary that constitutes a violation of laws or regulations directly leads to the occurrence of damage at the subsidiary, and, as a result, there is a high likelihood that damage will also be incurred by the parent company. Accordingly, such involvement may constitute a breach of the duty of due care and the duty of loyalty owed to the parent company.

Accordingly, if any director of the Company was actively involved in order coordination or related decision-making in connection with the JCHO Case or the NHO Case at Toho Pharmaceutical or Kyushu Toho, which are subsidiaries of the Company (including cases where such involvement occurred in the capacity of a director concurrently serving as a director of Toho Pharmaceutical or Kyushu Toho), such director would incur liability for breach of duty to the Company.

Furthermore, even where directors of a parent company are not themselves directly involved in unlawful conduct at a subsidiary, such directors may, as part of their duty of due care and duty of loyalty owed to the parent company, owe a duty to supervise the business operations of the subsidiary. For example, where they become aware of inappropriate conduct at a subsidiary, they are required to take concrete measures, such as conducting more specific and detailed investigations, either by themselves or through the board of directors, or by urging the directors or officers of the subsidiary to do so.

Nevertheless, since the duty to supervise subsidiaries is also based on negligence, in order for a director's liability to be affirmed, it is necessary that circumstances existed under which the unlawful business execution could have been discovered or was discoverable, and that the director was in a position to become aware of such circumstances.

Furthermore, with respect to the extent of the supervisory duties owed by each director, since the Company's business operations are allocated among different executive directors, the so-called Principle of Reliance applies. That is, the representative director is permitted to entrust the execution of the respective areas of responsibility to the relevant executive directors, and, in the absence of special circumstances giving rise to doubts as to the manner in which such executive directors perform their duties, the representative director does not incur liability for breach of supervisory duties. Likewise, directors other than the representative director do not incur liability for breach of their monitoring duties as directors with respect to the business execution of executive directors or employees, unless there exist special circumstances that would warrant raising doubts as to such business execution. It is considered that this Principle of Reliance also applies to the duty to supervise subsidiaries. In other words, unless warnings have been issued through the group internal control system, directors of the parent company are entitled to rely on the assumption that the business operations of the subsidiary are being conducted appropriately.

Accordingly, if a director of the Company was aware, or could have become aware, that order coordination in connection with the JCHO Case or the NHO Case was being carried out at Toho Pharmaceutical or Kyushu Toho which are subsidiaries of the Company, such director would owe, as part of the duty to supervise the subsidiaries, a duty to take necessary measures to prevent the occurrence of such order coordination. However, a breach of such duty cannot be found unless the director was in a position to become aware of circumstances that would give rise to doubts as to the propriety of the business execution at Toho Pharmaceutical or Kyushu Toho.

2. Determination of the Duties to Take Necessary Measures to Prevent the Occurrence of the JCHO Case.

(1) Existence or Absence of Liability of Each Subject Director.

a Involvement of Subject Directors.

At Toho Pharmaceutical, at the relevant time, the operations relating to responses to open competitive bidding for the joint procurement of pharmaceutical products used by hospitals under the umbrella of JCHO and NHO were within the responsibility of the Hospital Division of the Sales Management Headquarters. The Deputy Head or Head of the Hospital Division served as the ultimate person responsible for overseeing the operations relating to each such bid, determining the relevant policies, issuing specific instructions to the personnel in charge, and thereby occupying a position that led the order coordination activities in question.

At the relevant time, Akira Umada, who concurrently served as Head of the Hospital Division of Toho Pharmaceutical, received oral and written reports from sales personnel regarding the existence of bids and the results thereof; however, the process for determining bid prices and related matters was left to the discretion of the sales personnel, was not reported to Akira Umada, and no instructions in this regard were given by Akira Umada to the sales personnel.

In addition, Hiromi Edahiro, who was serving as Representative Director and President of Toho Pharmaceutical at the relevant time, received written reports regarding the details and schedules of the various bids, including the 2016 JCHO bids and the 2018 JCHO bids, as well as the results of such bids; however, he did not receive reports concerning the specific details of the bidding procedures or the existence or content of any order coordination.

Furthermore, (omitted), also received written reports regarding the JCHO bids; however, such written reports contained little more than information that bid announcements had been issued and the results of the bids, and did not include any descriptions of the specific circumstances of any order coordination.

Furthermore, based on the materials submitted by the Company in the course of the Investigation, no indication was found that, during the relevant period, the specific details of bidding procedures or the content of any order coordination had been reported to the boards of directors or the Audit and Supervisory Committee / Board of Auditors of the Company or Toho Pharmaceutical, and other Subject Directors and related persons who were interviewed in the Investigation also stated that they had not received any such reports.

In light of the foregoing, none of Hiromi Edahiro, Akira Umada, (omitted) is found to have been actively involved in the order coordination conduct in connection with the JCHO Case.

b Hiromi Edahiro

Hiromi Edahiro, at the time of the JCHO Case, received written reports for each bid prior to the bid indicating, among other matters, that bid announcements had

been issued, and also received written reports after each bid regarding the results of such bids; however, he did not receive any reports concerning the specific circumstances of any order coordination.

Nevertheless, according to the written statement made by Hiromi Edahiro before a public prosecutor dated November 24, 2020 in connection with the JCHO Case ("Edahiro Statement"), Hiromi Edahiro stated, among other things, that from the time of the JCHO Case, he thought that order coordination and similar conduct was likely being carried out among industry peers, including the major pharmaceutical wholesalers, in bids conducted by JCHO and NHO, and that, at the time of the 2016 bids and the 2018 bids, while he thought that order coordination was likely taking place, he did not directly instruct persons in charge of the bids or their supervisors not to engage in order coordination, nor did he take any further steps to prevent such conduct, due to prioritizing considerations such as securing sales and profits for Toho Pharmaceutical and maintaining bid shares.

However, in the interviews conducted in the Investigation, Hiromi Edahiro explained, among other things, that he was not aware that order coordination was being carried out. In light of his explanations regarding the circumstances of the prosecutorial questioning, as well as schedule books provided by Hiromi Edahiro that recorded the circumstances of such questioning at the relevant time and other materials, it is found that the Edahiro Statement may have been prepared under leading and coercive questioning, and accordingly, the credibility of the Edahiro Statement is found to be low.

In light of the foregoing, it cannot be found that Hiromi Edahiro, at the time of the JCHO Case, was aware, or could have become aware, that order coordination was being carried out.

c Akira Umada

Akira Umada, at the time of the JCHO Case, received written reports from sales personnel for each bid prior to the bid indicating, among other matters, that bid announcements had been issued, and also received reports after each bid regarding the results of such bids; however, he did not receive any reports concerning the specific circumstances of any order coordination.

Nevertheless, according to two written statements given by Akira Umada before a public prosecutor dated November 30, 2020 in connection with the JCHO Case ("Umada Statements"), Akira Umada stated, among other things, that from the time of the JCHO-Case, he thought that order coordination and similar conduct was likely being carried out among industry peers, including the major pharmaceutical wholesalers, in bids conducted by JCHO and NHO, and that he was aware that such order coordination constituted unlawful conduct prohibited under the Antimonopoly Act; however, prioritizing the securing of sales, profits, and bid shares, he deliberately did not instruct persons in charge of the bids to cease such order coordination and did not take any concrete measures to stop such conduct, thereby leaving the situation unaddressed.

However, in the interviews conducted in the Investigation, Akira Umada explained, among other things, that he did not think that order coordination was being carried out at the time of the JCHO-Case, and that he would have stopped such conduct had he been aware of it. In light of his explanations regarding the circumstances of the prosecutorial questioning, as well as entries in schedule books provided by Akira Umada that recorded the circumstances of such questioning at the relevant time and other materials, it is found that the Umada Statements may have been prepared under leading and coercive questioning, and accordingly, the credibility of the Umada Statements is found to be low.

In light of the foregoing, it cannot be found that Akira Umada, at the time of the occurrence of the JCHO-Case, was aware, or could have become aware, that order coordination was being carried out.

d (omitted)
(omitted) had been engaged in the sales division of Toho Pharmaceutical ; however, (omitted) regions. (omitted), he / she was responsible for sales in (omitted) regions.

In this regard, based on the organizational charts of Toho Pharmaceutical at the relevant time, (omitted) did not have responsibility for any specific department, and no materials were found that would substantiate that (omitted) was in a position to become aware of the status of the JCHO bids by supervising, or otherwise having responsibility for, the Hospital Division that carried out the order coordination conduct in connection with the JCHO Case. In addition, in the interviews conducted in the Investigation, (omitted) explained, among other things, that his /her duties consisted primarily of sales activities targeting local (omitted), that he / she was rarely present at the Tokyo headquarters, that he / she had no experience—either prior to or after joining Toho Pharmaceutical—in being involved in bidding procedures within the pharmaceutical wholesale industry, and that although he / she belonged to the sales division, he / she had never attended any meetings relating to cases in which bids were conducted.

In light of the foregoing, it cannot be found that (omitted), at the time of the JCHO Case, was aware, or could have become aware, that order coordination was being carried out.

e (omitted)
(omitted) explained in the interviews conducted in the Investigation that he / she was, in principle, engaged solely in his /her duties at (omitted), and that, although he / she served as (omitted) director of the Company and as a director of Toho Pharmaceutical, he / she did not have responsibility for any specific business area and was not in a position to become aware of the status of the JCHO bids. He / She further explained that, while he / she served as (omitted) director of the Company in charge of (omitted) region, his /her responsibilities in that capacity were limited to attending (omitted) branch meetings attended by the persons

responsible for (omitted) region and (omitted) branch managers, and that no discussions regarding individual bidding cases took place at such meetings.

In this regard, based on the organizational charts of the Company and Toho Pharmaceutical at the relevant time, (omitted) did not have responsibility for any specific department and was not positioned within the reporting line of the Hospital Division that carried out the order coordination conduct in connection with the JCHO Case. In addition, no particularly unreasonable aspects were found in (omitted)'s explanations in other respects, and it is therefore recognized that he / she was not in a position to become aware of the status of the bids or any order coordination in connection with the JCHO Case. Moreover, there are no objective materials indicating that (omitted) was aware of the order coordination in the JCHO Case.

In light of the foregoing, it cannot be found that (omitted), at the time of the JCHO Case, was aware, or could have become aware, that order coordination was being carried out.

f (omitted)
(omitted). In addition, in the interviews conducted in the Investigation, (omitted) explained that he / she was responsible for hospital sales targeting private universities and was not well acquainted with hospital sales to government bodies such as independent administrative agencies. Moreover, there are no objective materials indicating that (omitted) was aware of the order coordination in connection with the JCHO Case at the relevant time.

In light of the foregoing, it cannot be found that (omitted), at the time of the JCHO Case, was aware, or could have become aware, that order coordination was being carried out.

g (omitted)
(omitted) explained in the interviews conducted in the Investigation that his /her duties at the administrative divisions of the Company and Toho Pharmaceutical were primarily related to finance and accounting, and that while he / she occasionally requested reports on business performance from the sales division for purposes such as financial closing procedures and accounts receivable management, he / she did not receive reports regarding the execution of the sales division's operations, including individual bidding cases, and had not received any reports whatsoever regarding the status of bids or order coordination in connection with the JCHO Case.

No particularly unreasonable aspects were found in (omitted)'s explanations, and there are no other objective materials indicating that (omitted) was aware of order coordination at the time of the JCHO-Case.

In light of the foregoing, it cannot be found that (omitted), at the time of the JCHO Case, was aware, or could have become aware, that order coordination was being carried out.

(2) Summary

As set forth above, with respect to each of Hiromi Edahiro, Akira Umada, (omitted), it is not found that any of them was actively involved in the order coordination conduct in connection with the JCHO Case at the relevant time, nor that any of them was aware, or could have become aware, that such order coordination was being carried out.

Accordingly, with respect to any of these individuals, it cannot be determined that, at the time of the JCHO Case, there arose a duty to investigate the existence of individual order coordination acts in connection with the JCHO Case or to prevent such acts, and no liability for breach of duty in connection with any alleged violation of such duty is recognized.

3. Determination of the Duties to Take Necessary Measures to Prevent the Occurrence of the NHO Case.

(1) Existence or Absence of Liability of Each Subject Director.

a Involvement of Subject Directors.

Kyushu Toho was a member of the Kyosomirai Group together with the Company, Toho Pharmaceutical, and Seiyell Co., Ltd., a wholly owned subsidiary of Toho Pharmaceutical, and was in a relationship whereby it followed the policies of Toho Pharmaceutical, which serves as the core company of the Group.

However, with respect to the policy for responding to joint bids conducted by NHO, although Kyushu Toho did, on occasion, communicate and exchange information with the head office of Toho Pharmaceutical and order coordination in other regions, Kyushu Toho did not receive instructions or orders from Toho Pharmaceutical, nor did it reach any prior arrangements with Toho Pharmaceutical, regarding the basic policy for order coordination in connection with joint bids targeting the Kyushu area—namely, matters such as the share to be allocated to Kyushu Toho pursuant to agreements among the participating companies at meetings in the Kyushu area, or which groups of pharmaceuticals Kyushu Toho would become the prospective successful bidder for. Rather, with respect to joint bids in the Kyushu area, Kyushu Toho made such decisions based on its own independent judgment.

Within Kyushu Toho, operations relating to price negotiations and bidding procedures for joint bids conducted by NHO were within the responsibility of Kyushu Toho's Hospital Division, and joint bids conducted by NHO targeting the Kyushu area were handled by the Head of the Hospital Division and the Section Manager of the Hospital Division.

At Kyushu Toho as well, bid announcements and bid results were reported in written form. According to explanations, the reporting route was such that information was faxed from on-site sales offices to the Hospital Division, and the

responsible persons of the Hospital Division shared the information internally within Kyushu Toho. It is also stated that such information was reported to Kyushu Toho's full-time directors; however, the written reports contained only information such as bid announcements and bid results, and did not include details regarding specific order coordination. Moreover, such written reports of bid announcements and bid results were not made to the Company or to Toho Pharmaceutical. That said, since Toho Pharmaceutical's Hospital Management Division was also participating in bids in other regions for NHO tenders during the same period, information sharing at the personnel level did take place.

(omitted) at the relevant time, explained, as described in item (d) below, that he / she did not receive reports from the Head of the Hospital Division or the Head of the Sales Division regarding the specific details of NHO bidding procedures or the content of order coordination. Including the reasons given for this, no particularly unreasonable aspects are found in this explanation.

In addition, Hiromi Edahiro and (omitted) at the relevant time, were not in positions to receive written reports from the Hospital Division. Furthermore, as described above in Section 2(1)(a), even the written reports made by Toho Pharmaceutical contained only information such as the existence of bid announcements and bid results, and did not include details regarding specific order coordination.

In addition, Akira Umada, who at the relevant time served as a director or senior managing director of the Company and concurrently as Head of the Hospital Management Division of Toho Pharmaceutical, and who was in a position to effectively oversee, within the Company, the Hospital Division of Kyushu Toho that handled responses to NHO bids in the NHO Case, also did not receive written reports from Kyushu Toho to Toho Pharmaceutical's Hospital Management Division, nor did he receive any written reports whatsoever. Moreover, as described above in Section 2(1)(a), the written reports made by Toho Pharmaceutical likewise contained only information such as the existence of bid announcements and bid results, and did not include details regarding specific order coordination.
(omitted) have also explained that they did not receive any reports whatsoever regarding NHO bids conducted by Kyushu Toho, and no particularly unreasonable aspects are found in those explanations.

Furthermore, even in the materials submitted by the Company in this Investigation, no evidence is found indicating that details of specific bidding procedures or order coordination were reported during the relevant period to the boards of directors or the Audit and Supervisory Committee / Board of Corporate Auditors of the Company or Kyushu Toho. Other Subject Directors, etc., who were interviewed in this Investigation have likewise explained that they did not receive any such reports.

In light of the foregoing, it cannot be found that any of Hiromi Edahiro, Akira Umada, (omitted) actively participated in the order coordination conduct in the NHO Case.

b Hiromi Edahiro

Hiromi Edahiro may have received written reports, in connection with each NHO bid in the Kyushu area in which Kyushu Toho participated at the time of the NHO Case, to the effect that a bid announcement had been issued prior to each bid, and reports concerning matters such as the bid results after each bid. However, he does not have a clear recollection in this regard, and, at a minimum, he did not receive any reports concerning the specific circumstances of order coordination.

In addition, taking into account, among other things, that in the interviews conducted in this Investigation, Hiromi Edahiro explained that he had no awareness that order coordination was being carried out, as described above in Section 2(1)(b), the credibility of the Edahiro interrogation record is found to be low.

Accordingly, it cannot be found that Hiromi Edahiro, at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

c Akira Umada

At the time of the NHO Case, Akira Umada served as a director or senior managing director of the Company and concurrently held the position of Head of the Hospital Management Division of Toho Pharmaceutical. However, as described in item (a) above, no written reports were made from Kyushu Toho to Toho Pharmaceutical's Hospital Management Division, and Akira Umada did not receive any written reports. Although there is a possibility that he may have received written reports from Toho Pharmaceutical's Hospital Management Division, which had received information sharing at the personnel level from Kyushu Toho, as described above in Section 2(1)(a), the written reports of Toho Pharmaceutical likewise contained only information such as the issuance of bid announcements and bid results, and did not include details regarding specific order coordination.

In addition, in the interviews conducted in this Investigation, Akira Umada explained that, even at the time of the NHO Case, he did not believe that order coordination was being carried out and that, had he known of such conduct, he would have stopped it. Taking these explanations into account, as described above in Section 2(1)(c), the credibility of the Umada interrogation record is found to be low.

Accordingly, it cannot be found that Akira Umada, at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

d (omitted)

In the interviews conducted in this Investigation, (omitted) explained that his /her experience of being involved in bidding operations was limited to, at the beginning of his /her employment, having been involved to a minor extent in the preparation of materials for bidding procedures, and that he / she had never been involved in order coordination in the past, nor had he / she ever received any reports concerning order coordination. In particular, he / she stated that after being assigned to (omitted) following the Miyagi Prefecture Cartel Case, he / she had been engaged in facilitation of compliance within the Company Group, including taking the lead in drafting the contents of the Company Group's Code of Ethics.

In addition, in the interviews conducted in this Investigation, he / she explained that individual bidding situations had never been discussed at meetings of the board of directors of Kyushu Toho, and that, in his /her capacity as (omitted) of Kyushu Toho, his /her duties were limited to giving instructions regarding overall sales strategy (primarily sales strategy toward manufacturers). As the reason for this, he / she explained that hospital bidding matters such as those conducted by NHO were handled in a highly specialized, practitioner-driven manner by Toho Pharmaceutical's Hospital Management Division and Kyushu Toho's Hospital Division, and therefore it was not assumed that details of individual bidding matters would be reported to management.

No particularly unreasonable aspects are found in (omitted)'s explanations given in the interviews. Furthermore, in light of the objective materials, no materials have been identified indicating that details of NHO bidding procedures or the contents of order coordination were discussed at meetings of the board of directors of Kyushu Toho. Although bid announcements and bid results were reported in the written materials used within Kyushu Toho, no descriptions suggesting order coordination are found therein. In addition, there are no objective materials indicating that (omitted) was aware that order coordination was being carried out.

Accordingly, it cannot be found that (omitted), at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

e (omitted)

According to the interviews of (omitted), after assuming the position of (omitted), his /her primary duties consisted of work related to (omitted), he / she took the lead in (omitted). He / She also explained that he / she was hardly engaged in the business of the Company or the Company Group, held no positions at Toho Pharmaceutical or Kyushu Toho, and had never engaged in business execution within the sales division of Kyushu Toho.

In addition, (omitted) explained that he / she had never received any reports whatsoever regarding the status of NHO bids. No particularly unreasonable aspects are found in this explanation, and there are no objective materials

indicating that (omitted) was aware of the order coordination conduct in the NHO Case.

Accordingly, it cannot be found that (omitted), at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

f (omitted)
It is recognized that (omitted) was not positioned within the reporting line relating to the Hospital Division of Kyushu Toho or the Hospital Management Division of Toho Pharmaceutical in connection with the NHO Case.

(omitted) explained that he / she did not clearly recognize that Kyushu Toho was participating in NHO bids and, as in the JCHO Case, that he / she had not received any reports whatsoever regarding the status of NHO bids. No particularly unreasonable aspects are found in this explanation, and there are no objective materials indicating that (omitted) was aware of the order coordination conduct in the NHO Case.

Accordingly, it cannot be found that (omitted), at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

g (omitted)
(omitted)
(omitted) served as (omitted) director of Kyushu Toho and is considered not to have been in a position to receive reports from Kyushu Toho's Hospital Division, which was the sales department responsible for the NHO Case, or from the Sales Division overseeing the Hospital Division. The organizational chart of Kyushu Toho at the time of the NHO Case likewise does not suggest that he / she held such a position. In addition, there are no objective materials indicating that (omitted) was aware of order coordination at the time of the NHO Case.

Accordingly, it cannot be found that (omitted), at the time of the NHO Case, recognized, or could have recognized, that order coordination was being carried out.

(2) Summary
As set forth above, with respect to each of Hiromi Edahiro, Akira Umada, (omitted), it cannot be found that, at the time of the NHO Case, any of them was actively involved in the order coordination conduct in the NHO Case, nor can it be found that any of them was aware, or could have been aware, that such order coordination was being carried out.

Accordingly, with respect to each of these individuals, it cannot be recognized that, at the time of the NHO Case, there arose any duty to investigate the existence of individual acts of order coordination in the NHO Case and to prevent such acts, and

therefore, no liability for breach of duty (dereliction of duty) in relation to such duty can be found.

4. Framework for Determining Directors' Duties to Establish an Internal Control System

(1) Basic Framework.

Under the Companies Act, the board of directors of a company such as the Company, which is a large company and a company with an Audit and Supervisory Committee, is required to resolve the development of an internal control system necessary to ensure the appropriateness of operations of the corporate group, including its subsidiaries (Article 362, paragraph (4), item (vi) and paragraph (5), and Article 399-13, paragraph (1), item (i), (b) and (c), and paragraph (2) of the Companies Act). Directors, in turn, are required, in fulfillment of their duties of due care of a prudent manager and loyalty, to establish a concrete internal control system based on such resolutions of the board of directors.

With respect to the question of what level of organizational framework is required in fulfilling the requirement to establish a concrete internal control system, judicial precedents have denied a breach of directors' duty to establish an internal control system where the company had put in place a management system sufficient to prevent misconduct ordinarily foreseeable, and where there were no special circumstances under which the occurrence of misconduct should have been foreseen, such as prior incidents of misconduct carried out by similar methods.

In the present case, the JCHO Case and the NHO Case concern the establishment and operation of an internal control system for the corporate group targeting Toho Pharmaceutical and Kyushu Toho, which are subsidiaries of the Company. In establishing and operating an internal control system for a corporate group that includes subsidiaries, it is necessary to comprehensively consider factors such as the importance of the subsidiary and respect for its independence. Accordingly, it is considered that parent company directors are afforded broad discretion, and that the business judgment rule applies. Therefore, unless there are points in the establishment or operation of the internal control system by the parent company directors that are markedly unreasonable, the parent company directors do not incur liability for dereliction of duty.

With respect to the concrete establishment and operation of the internal control system carried out by each director in accordance with the basic policy for the internal control system resolved by the board of directors, such responsibilities are allocated among the directors in charge of business execution. Accordingly, whether there has been any dereliction of duty must be examined in light of each director's scope of responsibility. In this regard, as noted above, because various factors—such as the importance of the subsidiary and the need to respect its independence—are permitted to be taken into account in the concrete establishment and operation of the internal control system, it should be noted that both the content of the internal control system to be developed at the subsidiary and the degree of control required

of parent company directors will differ depending on the importance of the subsidiary within the group and the necessity of respecting its independence.

Moreover, the principle of reliance also applies to the concrete establishment and operation of the internal control system. Accordingly, unless there exist special circumstances that would give rise to suspicion that another director's execution of duties is unlawful, it is justified to rely on the legality of the execution of duties by the director in charge, and a director will not be held liable for breach of the duty of due care of a prudent manager based on a duty to monitor other directors.

Furthermore, with respect to directors who concurrently serve as directors or officers of subsidiaries, it is considered that they are required to fulfill the requirement to establish and operate the internal control system and/or their duty of supervision in light of the circumstances that they recognized or could have recognized in their capacity as directors or officers of the subsidiaries.

(2) Framework for Examining Liability.

Based on the foregoing analysis, in the present case, we conducted our examination in the following order:

(i) Given that the Company (whose trade name at the time was Toho Pharmaceutical) was subject to a surcharge payment order in the Miyagi Prefecture cartel case in 2003, confirmation of the outline of the recurrence prevention measures implemented following the Miyagi Prefecture cartel case;

(ii) Confirmation of the compliance management framework through which the Company managed the compliance systems of its subsidiaries at the time when the JCHO Case and the NHO Case occurred;

(iii) Confirmation of Toho Pharmaceutical's compliance system with respect to the Antimonopoly Act at the time when the JCHO Case and the NHO Case occurred;

(iv) Confirmation of Kyushu Toho's compliance system with respect to the Antimonopoly Act at the time when the JCHO Case and the NHO Case occurred; and

(v) Examination of whether each director bears any responsibility.

5. The Internal Control System at the Time of the Occurrence of the JCHO Case and NHO Case.

(1) Overview of the Recurrence Prevention Measures Implemented Following the Miyagi Prefecture Cartel Case.

In response to the Miyagi Prefecture cartel case, the Company (formerly Toho Pharmaceutical) implemented recurrence prevention measures, including disseminating awareness of legal compliance through various internal meetings and conducting in-house training sessions.

(2) Management Structure for Oversight of Subsidiaries' Compliance Systems by the Company at the Time of the JCHO Case and the NHO Case.

a Continuation of Recurrence Prevention Measures Following the Miyagi Prefecture

Cartel Case.

(i) Through the establishment of the "Kyoso Mirai Group Code of Ethics," its distribution to all employees, and its placement at business offices, the Company continuously ensured that all employees were informed thereof.

(ii) Through various internal meetings, the Company continuously ensured thorough awareness of sales activities conducted in compliance with laws and regulations.

b Overview of the Organizational Structure at the Time of the Occurrence of the JCHO Case and NHO Case.

At the time when the JCHO Case and the NHO Case occurred, based on the basic policy for the internal control system resolved by the Company's board of directors, the Company had established a framework for managing the compliance systems of its subsidiaries as described below.

(i) Confirmation, through various internal meetings, of the thorough implementation of sales activities conducted in compliance with laws and regulations, including the Antimonopoly Act;

(ii) Establishment of a framework under which directors of the Company concurrently serving as directors of important subsidiaries report the status of subsidiaries' business execution to the board of directors;

(iii) Development of approval standards for subsidiaries' business execution, deliberation and reporting at the Group Management Committee, and submission and reporting to the board of directors;

(iv) Promotion of compliance and risk management across the entire group through the establishment of the Group Compliance and Risk Management Committee;

(v) Implementation of awareness-raising activities to ensure that subsidiaries thoroughly practice the standards of conduct based on the ethical norms set forth in the Kyoso Mirai Group Code of Ethics;

(vi) Periodic internal audits of subsidiaries conducted by the Group Audit Office;

(vii) Development of an internal whistleblowing system that also covers reports from employees of subsidiaries; and

(viii) Establishment of a consultation desk concerning the Antimonopoly Act.

In light of the foregoing, it can be recognized that, at the time when the JCHO Case and the NHO Case occurred, the Company had established a framework for managing the compliance systems of its subsidiaries that was capable of addressing risks ordinarily foreseeable.

(3) Overview of Toho Pharmaceutical's Compliance System under the Antimonopoly Act at the Time of the JCHO Case.

At Toho Pharmaceutical, at the time when the JCHO Case occurred, in addition to the framework described in (2) b. above, the following compliance system with respect to the Antimonopoly Act had been established.

(i) Confirmation of compliance with laws and regulations, including the Antimonopoly Act, in the course of periodic audits conducted by the Company's Group Audit Office with respect to the various sales departments and other divisions of Toho Pharmaceutical;

(ii) Establishment of internal rules and regulations concerning compliance with the Antimonopoly Act;
(iii) Participation by officers and employees in external training programs concerning compliance, including compliance with the Antimonopoly Act;
(iv) Explicit stipulation in the internal rules and regulations concerning compliance with the Antimonopoly Act that violations of such rules may be subject to disciplinary action and claims for damages;
(v) Establishment, in the internal rules and regulations concerning compliance with the Antimonopoly Act, of rules governing contacts with competing companies;
(vi) Stipulation, in the internal rules and regulations concerning compliance with the Antimonopoly Act, of employees' duty to report in the event of any violation;
(vii) Operation of an email monitoring system; and
(viii) Establishment, in internal rules and regulations, of emergency response measures, such as the establishment of a task force, in the event that management risks arise.

In light of the foregoing, it can be recognized that, at the time when the JCHO Case occurred, Toho Pharmaceutical had established a compliance system with respect to the Antimonopoly Act that was capable of addressing risks ordinarily foreseeable.

(4) Overview of Kyushu Toho's Compliance System under the Antimonopoly Act at the Time of the NHO Case.

At Kyushu Toho, at the time of the occurrence of the NHO Case, in addition to the matters set forth in item (2) b above, the following compliance systems concerning the Antimonopoly Act had been established.

(i) Confirmation that, in the course of periodic audits conducted by the Company's Group Audit Office with respect to Kyushu Toho, compliance was positioned as a key audit objective, among other matters;
(ii) Thorough dissemination to all employees of the Kyoso Mirai Group Code of Ethics, which also stipulates compliance with the Antimonopoly Act;
(iii) Participation by senior sales management in external training programs concerning the Antimonopoly Act;
(iv) Reporting, at the Group Compliance and Risk Management Committee of Toho Pharmaceutical, of the status of activities of Kyushu Toho's Compliance Committee, among other matters; and
(v) Operation of an email monitoring system.

In light of the foregoing, it can be recognized that, at the time when the NHO Case occurred, Kyushu Toho had established a compliance system with respect to the Antimonopoly Act that was capable of addressing risks ordinarily foreseeable.

Although Kyushu Toho's compliance system with respect to the Antimonopoly Act differs in certain respects from that of Toho Pharmaceutical, the level of internal control exercised by a parent company over its subsidiaries necessarily varies depending on the subsidiary's size and importance within the group, and the content

and degree of supervision exercised by the parent company will accordingly differ. Therefore, the mere existence of differences among subsidiaries does not, in and of itself, constitute a problem.

Within the Company's group, while Toho Pharmaceutical accounts for a substantial portion of the group's consolidated sales and serves as the core company in the pharmaceutical wholesaling business, Kyushu Toho does not occupy such a position. Accordingly, there is nothing unreasonable in the fact that the content and degree of supervision exercised by the Company with respect to Toho Pharmaceutical and Kyushu Toho differ, and it is considered that there is no issue with the internal control system of Kyushu Toho as exercised by the Company.

(5) Summary

As set forth above, it can be recognized that, at the time when the JCHO Case and the NHO Case occurred, the Company had established a framework for managing the compliance systems of its subsidiaries that was capable of addressing risks ordinarily foreseeable, and that, at the time when the JCHO Case and the NHO Case occurred, both Toho Pharmaceutical and Kyushu Toho had established compliance systems with respect to the Antimonopoly Act that were capable of addressing risks ordinarily foreseeable.

6. Determination of the Duties to Establish an Internal Control System at the Occurrence of the JCHO Case and NHO Case.

(1) Existence or Absence of Liability of Each Subject Director.

a Hiromi Edahiro

With respect to Kyushu Toho, Mr. Hiromi Edahiro merely concurrently served as a non-executive director. Accordingly, it is considered that, even de facto, he cannot be said to have been in a position at the Company to be responsible for Kyushu Toho, which was the company directly involved in the NHO Case.

In addition, in light of the fact that, as described in 2(1)b. above, Mr. Hiromi Edahiro explained in the interviews conducted in the course of this Investigation that he had no awareness that order coordination was being carried out, among other factors, it can be recognized that the credibility of Mr. Edahiro's written statement is low.

In light of the foregoing, it cannot be found that Mr. Hiromi Edahiro recognized, or could have recognized, that order coordination was being carried out, even under the compliance system with respect to the Antimonopoly Act in place at the time of the JCHO Case and the NHO Case.

b Akira Umada

In light of the fact that, as described in 2(1)c. above, Mr. Akira Umada explained in the interviews conducted in the course of this investigation that he had no awareness that order coordination was being carried out at the time of the JCHO Case and the NHO Case, among other factors, it can be recognized that the credibility of Mr. Umada's written statement is low.

In light of the foregoing, it cannot be found that Mr. Akira Umada recognized, or could have recognized, that order coordination was being carried out under the compliance system with respect to the Antimonopoly Act in place at the time of the JCHO Case and the NHO Case.

c Existence or Absence of Liability of Other Subject Directors

As described in 2(1) above and 3(1) above, with respect to (omitted), it cannot be found that, at the time when the JCHO Case and the NHO Case occurred, they recognized, or could have recognized, that order coordination was being carried out.

In addition, with respect to (omitted), none of them was, by virtue of their respective roles and responsibilities, in a position to be in charge of the Hospital Management Division or Kyushu Toho. Furthermore, as described in 2(1)a. and 3(1)a. above, they merely received written reports of bid announcements and bid results, and there is no indication that details of bid procedures or the content of order coordination were reported at the boards of directors or similar bodies of the Company, Toho Pharmaceutical, or Kyushu Toho. In light of these circumstances, it cannot be recognized that, in the course of their duties as directors or officers, they were in a position to recognize any special circumstances with respect to bidding projects conducted by the Hospital Management Division or Kyushu Toho. Moreover, all of these former directors explained, in the interviews conducted in the course of this Investigation, that they were not aware that order coordination was being carried out at the time when the JCHO Case and the NHO Case occurred, and, within the scope of this investigation, no evidence has been discovered indicating that these former directors could have recognized that order coordination was being carried out.

Accordingly, with respect to the Subject Directors other than Hiromi Edahiro, Akira Umada, (omitted), given the absence of any special circumstances under which they recognized, or could have recognized, that order coordination was being carried out, the principle of reliance applies, and it cannot be found that they breached the requirement to establish a compliance system with respect to the Antimonopoly Act capable of preventing order coordination (including the obligation to monitor whether such compliance system was being properly operated). Furthermore, as discussed above, the internal control system, including the compliance system, was at least at an acceptable level in light of judicial precedents, and it cannot be found, even with respect to (omitted), that there existed any circumstances suggesting a failure to exercise the duty of care required in auditing the internal control system.

(2) Summary

As set forth above, with respect to each of the Subject Directors identified by the party requesting to file a lawsuit, it cannot be found that, even under the compliance system with respect to the Antimonopoly Act in place at the time when the JCHO Case and the NHO Case occurred, they recognized, or could have recognized, that order coordination was being carried out. Accordingly, with respect to any of them,

it cannot be recognized that there existed special circumstances under which unforeseen risks should have been anticipated.

Therefore, it cannot be found that, at the time when the JCHO Case and the NHO Case occurred, there was any breach of the requirement to establish and operate an internal control system for the prevention of both cases, or any breach of the duty of care required to be exercised in monitoring the establishment and operation of the internal control system.

7. Summary

When a company receives a request from shareholders to file a lawsuit seeking to pursue liability, it is considered that, in examining whether or not to file such litigation, the following factors should be taken into account: (i) the likelihood of prevailing in the litigation; (ii) the necessity of filing the litigation; (iii) the extent of damages; (iv) the recoverability of damages; and (v) the human, time, and financial burdens on the company.

First, with respect to (i) the likelihood of prevailing, as described in detail in Sections 1 through 6 above, with respect to each of the Subject Directors, it cannot be recognized that, at the time of the JCHO Case and the NHO Case, there arose any duty to investigate the existence of individual acts of order coordination in those cases and to prevent such acts, nor can any liability for dereliction of duty in relation to a breach of the requirement to establish and operate an internal control system be recognized. Accordingly, it can be reasonably concluded that, if an action seeking to pursue liability were to be filed against the Subject Directors, the possibility that a breach of the duty of due care of a prudent manager would be found and that the Company would prevail is low.

In addition, in light of the results of this Investigation, even if an action seeking to pursue liability were to be filed, the principal evidence for proving a breach of the duty of due care of a prudent manager by the directors at the time of the JCHO Case and the NHO Case would, in substance, be limited to the Edahiro Statement and Umada Statements. As recognized in Section 2 above, the credibility of both written statements is low, and it must therefore be said that it would be difficult to conclude that sufficient evidence exists to establish liability.

Next, with respect to (ii) the necessity of filing litigation, in light of the foregoing determination that no breach of the duty of due care of a prudent manager by the Subject Directors can be recognized, it cannot be said that there is a high necessity to file litigation in this matter.

With respect to (iii) the extent of damages and (iv) the recoverability of damages, even if a breach of the duty of due care of a prudent manager by the Subject Directors were to be recognized, the amount of damages would be substantial, and, taking into account the likelihood of prevailing, it is considered unlikely that the full amount of such damages could be recovered. In addition, with respect to (v), if an action seeking to pursue liability were to be filed, the human and time burdens on the Company required

to respond to such litigation would not be insignificant, and considerable financial expenditures, including attorneys' fees, would also be necessary.

As set forth above, in light of the comprehensive consideration that, if an action seeking to pursue liability were to be filed, the likelihood of prevailing would be low, that even if the Company were to prevail, the recoverability of damages would be low, and that the human, time, and financial burdens on the Company associated with filing such litigation would be substantial, the Audit and Supervisory Committee of the Company considers that the action seeking to pursue liability requested by the party requesting to file a lawsuit should not be filed.

III. Conclusion

Accordingly, we hereby notify you by this letter that the Company will not file a lawsuit to enforce liability against the Requested Parties.

Sincerely yours,