

[REDACTED]

Phone: [REDACTED]

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August 16, 2024

BY FEDERAL EXPRESS

Assertio Holdings, Inc.
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

**Re: Demand to Inspect Books and Records of Assertio Holdings, Inc.
Pursuant to Delaware General Corporation Law § 220
REPLY REQUESTED WITHIN FIVE BUSINESS DAYS**

To Whom It May Concern:

[REDACTED] serves as counsel for Buxton Helmsley Active Value Fund, L.P. (“BHG”), a record owner of Assertio Holdings, Inc. (the “Company”) common stock.

The Company owns and exercises control over the affairs of Spectrum Pharmaceuticals, Inc. (“Spectrum”), a wholly owned Company subsidiary. BHG demands responsive books and records whether they are in the direct control of the Company or the control of the Company’s subsidiary Spectrum.

[REDACTED] is authorized to act on BHG’s behalf in connection with this matter by a Power of Attorney, dated August 16, 2024, which is attached hereto as Exhibit A.

We hereby demand that the Company (including but not limited to the Company subsidiary Spectrum) make available certain books and records, specified below, for inspection and copying under Delaware General Corporation Law § 220 (the “Demand”).

Background and Purpose

In July 2023 the Company completed the acquisition of Spectrum, a biopharmaceutical company for a consideration with the total claimed fair value of approximately \$252 million (the

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“Merger”). After the completion of the Merger, Spectrum is now a fully owned subsidiary of the Company.

A primary impetus for the Company to acquire Spectrum through the Merger was Spectrum’s Rolvedon product—a biologic that was understood to be a very promising injectable treatment for certain types of cancer. The Company wanted to add Rolvedon to its portfolio because, at the time of the Merger, the Company’s existing and commercially successful product that comprised of the majority of its revenue, Indocin, was soon to lose patent protection and would then face significant competition from generic alternatives.

After the completion of the Merger, in the third quarter of 2023 the Company announced that it was writing down the value of several assets on its balance sheet, at a total write-down of approximately \$280 million. The single largest write-down related to Rolvedon, the book value of which was reduced by \$157 million (down from \$220.5 million at the time of the Spectrum Merger two months earlier). At the time the Company offered no plausible explanation for this almost 75% write-down (and, to date, still has offered no plausible explanation).

This write-down of the value of the Rolvedon product played a significant part in the Company’s reduced profits between 2022 (pre-Merger) and 2023 (post-Merger). Indeed, although the Company reported a net, after-tax income of approximately \$110 million in 2022, in 2023 the Company reported a net loss of \$332 million—a negative change of over \$440 million.

As a result of this significant, abrupt, and majorly unexplained change to the Company’s financial performance, BHG began investigating the cause of the Company’s losses, including in particular the write-down of the value of Rolvedon. BHG came into contact with a former high-level Spectrum employee (specifically, Spectrum’s former in-house research and development counsel, dedicated to the business, contracts, and regulatory compliance associated with Spectrum’s clinical research) turned whistleblower (the “Whistleblower”) who had been responsible at Spectrum for overseeing compliance with Food and Drug Administration (“FDA”) FDA protocols for clinical trials. While at Spectrum, the Whistleblower reported a number of serious issues to her superiors, including but not limited to (1) lack of training and oversight of clinical research associates (“CRAs”), the persons who liaise with the doctors conducting the trials and who find and vet the patients to participate; (2) CRAs improperly instructing clinical site coordinators to change test results; (3) CRAs deleting unfavorable test results from databases; (4) poorly designed clinical study protocols; (5) patients enrolled in studies despite not meeting screening criteria; (6) patients allowed to remain in studies while taking contraindicated medications; (7) local labs, not approved by FDA (but many of them operated by friends of Spectrum executives) used for patient blood testing instead of central, FDA-approved labs; (8) failure to document waivers when patients took steroids in violation of FDA protocols; (9) numerous violations of FDA standard protocols by certain, high-volume labs with known histories of bad conduct, and failure by Spectrum to inspect these labs or report investigation outcomes;

(10) use of manual data management process subject to widespread human error, instead of FDA-standard software; (11) employment of untrained medical monitors; (12) failure to document and verify patient informed consent for inclusion in clinical trials; and (13) failure to verify and document patient eligibility for inclusion in trials, among several other issues.

The Whistleblower also became aware of reports of patients who had been treated with Rolvedon in clinical trials whose cancer had become worse rather than improving, and patients treated with Rolvedon who suffered damaging side effects. In an especially troubling episode, Spectrum failed to notify between 30 and 40 study subjects that tests of their blood had shown cancer proliferation/oncolytic Blood Blasts. This constituted a shocking breach of Spectrum's obligations to those test subjects and also constituted a serious violation of FDA and European Medicines Evaluation Agency ("EMA") regulations. When a patient is considering participating in a trial, the clinical research organization ("CRO") conducting the trial discusses the procedures with them and requires them to read and sign customized informed consent forms. Spectrum commits to those study subjects that they will promptly be notified of any adverse results in testing. In the case of the study subjects whose tests showed Blood Blasts, the CRO notified Spectrum of this critical fact, expecting that Spectrum would inform those individuals. Shockingly, however, Spectrum, chose to waste eight months in which it continued dosing the study subjects and collecting Blood Blast reports from the CRO without investigating the root cause, and chose *not* to tell the study subjects about the Blood Blasts.

The Whistleblower refused to sign off on reports of Rolvedon clinical studies to be submitted to the FDA, which the Whistleblower believed to be substantially false, and was subsequently fired as a result of refusing to sign off on such reports.

BHG substantiated the Whistleblower's report by speaking with a second former high-level Spectrum employee intimately involved in the clinical trials of Rolvedon. This second employee also reported similar concerns to superiors at Spectrum, including incidents in which clinical trial results were altered to remove reports of severe adverse events ("SAEs") at Spectrum's request, and incidents in which clinical trials were compromised by defective practices.

As you know, BHG, through its Senior Managing Director Alexander E. Parker, approached the Company's board of directors in mid-2024 to discuss the foregoing issues. The board initially refused to meet with Mr. Parker at the same time its management disclaimed knowledge of Spectrum's wrongdoing, even after Mr. Parker very specifically described issues at hand. Mr. Parker then presented evidence that the Company *did* have such knowledge, after which the board suddenly changed its story and admitted to knowing of the issues raised by BHG, but claimed they had no merit. It did not provide any details, records, or findings from such investigation beyond its conclusory assertion that it had found no wrongdoing.

Given the lack of action by the Company's board of directors, BHG retained a certified fraud examiner, Rumbi B. Petrozzello, to look into disclosure failures and deficiencies by the Company's board. Ms. Petrozzello issued a written report identifying a number of deficiencies by the Company's board, including: (1) the failure to explain the precipitous drop in value (75%) of the Spectrum assets following the acquisition; (2) the lack of explanation why, given the significant amount of cash on the Company's balance sheet and the Company's claims to be "well-funded," the Company had not seen it necessary to accrue any contingent loss reserves, while also being unwilling to engage in common stock share repurchases on any level (an issue even more concerning because directors and officers had abstained from personal share purchases for an extended period of time, indicating the Company's financial statements may very possibly not be disclosing a true and fair view of financial position); (3) the Company's failure to disclose whether there was a material mismatch between the reported book value of assets and those assets' fair value, which is contrary to SEC disclosure regulations; and (4) the Company's failure to disclose certain other items necessary for a prudent investor to effectively value the company's traded securities.

In light of the foregoing issues, the Company's refusal to meet with BHG or fully investigate the concerns brought to it by BHG, and Ms. Petrozzello's findings, BHG is serving this Demand to further investigate potential waste or other wrongdoing at the Company and to determine whether to pursue a derivative action to vindicate it and other shareholders' interests. Production of the below-requested records by the Company will serve to supplement the already-extensive evidence in possession of the whistleblowers cooperating with BHG.

Accordingly, BHG demands an inspection of the books and records specified below for the following purposes:

1. Investigate and evaluate mismanagement, waste, breaches of fiduciary duty, or lack of due care by the Company in connection with evaluating the Merger, Spectrum's value, and the value of Rolvedon. Such investigation and evaluation include but are not limited to whether the Company was aware, or should have been aware, of the reports of misconduct at Spectrum detailed above prior to the Merger;
2. Investigate and evaluate mismanagement, waste, breaches of fiduciary duty, or lack of due care by the Company in connection with evaluating the misconduct and issues detailed above after it was brought to the Company's attention by BHG, the Whistleblower, and/or others;
3. Investigate and evaluate mismanagement, waste, breaches of fiduciary duty, or lack of due care by the Company in connection with the Company's significant write-down of assets in late 2023, including the reasons for such write-down and whether the Company could or should have reasonably prevented such write-downs;

4. Investigate and evaluate whether the Company and/or Spectrum took action to conceal any known misconduct relating to the events set forth in this Demand (including but not limited to through severance or non-disclosure agreements with Company or Spectrum employees), and, if so, whether such actions constitute breaches of fiduciary duty, or lack of due care, or otherwise breached applicable law or regulation;
5. Investigate and evaluate whether the Company's actions in connection with issues set forth in this Demand complied with Delaware law and/or any other governing instruments of the Company;
6. Determine the true value of BHG's shares in the Company in light of the events set forth in this Demand;
7. Use the information obtained through the inspection, examination, and copying of the books and records demanded herein to evaluate, assess, and determine whether to commence potential litigation and/or pursue any other remedies or relief related to the events set forth in this Demand; and
8. Use the information obtained through the inspection, examination, and copying of the books and records demanded herein to communicate with other holders of Company equity regarding the events set forth in this Demand, including the potential mismanagement, waste, breaches of fiduciary duty, or lack of due care by the Company, and the commencement of possible litigation.

These purposes are reasonably related to BHG's interest as a Company shareholder because they materially affect the value of BHG's shares and have the potential to continue to affect the value if left unchecked. Courts have held such a purpose to be proper under similar circumstances. See, e.g., *Woods Tr. of Avery L. Woods Tr. v. Sahara Enterprises, Inc.*, 238 A.3d 879 (Del. Ch. 2020); *Kosinski v. GGP Inc.*, 214 A.3d 944 (Del. Ch. 2019).

Books and Records

BHG hereby demands that the Company make available for inspection and copying the following books and records:

1. The Company's stock ledger.
2. A complete list of the Company's shareholders as of the date of this Demand showing the names, addresses, and shareholdings of each shareholder.
3. A complete list of the names, addresses, and shareholdings of beneficial owners of the Company's stock, including but not limited to any "CEDE" lists, nonobjecting beneficial

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owners or “NOBO” lists, or other similar lists.

4. A correct and complete copy of the bylaws of the Company, including any amendments thereto, and any other governing documents of the Company.

5. All documents reviewed or considered by the Company (including through its agents, such as attorneys, accountants, or advisors) in connection with the Merger, including but not limited to documents or communications related to the value of Spectrum (including but not limited to any valuations of Spectrum), documents or communications concerning the Rolvedon product, and documents or communications concerning any reports of wrongdoing within Spectrum.

6. All documents and communications concerning reports of wrongdoing within Spectrum received by the Company whether before or after the Merger, and all documents and communications concerning the Company’s response (if any).

7. All minutes and records of any Company board meeting at which the Merger or the events set forth in this Demand were discussed.

8. All documents to or from any professional advisor(s) who assisted or advised the Company in the negotiation or implementation of any actual or potential transaction between the Company and Spectrum, including but not limited to the Merger, concerning such actual or potential transaction.

9. A complete list of Spectrum employees (including full name, title at time of departing Spectrum, last date of employment, last known mailing address, and last known phone number) who were offered a severance package between 2018 and present, including documents showing whether or not such employees executed any severance agreement (the “Severed Employees”).

10. A complete list of all payments (whether related to employment, severance, post-employment litigation, or otherwise) made to the Severed Employees, from the date of such individuals having departed Spectrum to present, including the basis for each such payment.

The above-listed books and records must include all relevant books and records in the Company’s possession, custody, or control, including books and records which are in the possession of any of the Company’s agents, including but not limited to its attorneys, accountants, or other agents and advisors., or any books and records in the possession of the Company’s Spectrum subsidiary.

Please contact us promptly to advise whether the Company will allow us to conduct the inspection as set out in this Demand, make the above-described books and records available at

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your principal office or another mutually convenient location for BHG and/or the undersigned to inspect, copy, and make extracts at our expense at a mutually agreeable date and time no later than the close of business on September 9, 2024.

If you fail to respond within five business days as required by Delaware General Corporation Law § 220, or if you refuse this inspection demand, BHG reserves the right to file an action in the Delaware Chancery Court to compel the Company to comply with this Demand.

I hereby affirm under penalty of perjury that the purposes for the demanded inspection as set forth above constitute a true and accurate statement of the reasons Buxton Helmsley Active Value Fund, L.P., seeks to review the demanded books, records, and documents, and that such demand is made in good faith. The purpose is both proper and reasonably related to Buxton Helmsley Active Value Fund, L.P.'s interest as a stockholder of Assertio Holdings, Inc. for the purposes set forth above.

BHG reserves all legal and equitable rights and remedies and waives none.

Sincerely,

/s/ [REDACTED]
[REDACTED]

Enclosure

Cc: [REDACTED]

EXHIBIT A
Power of Attorney

