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The Honorable Elizabeth Warren
Hart Senate Office Building
United States Senate
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Re: Mallinckrodt Plc. (NYSE: MNK) - $2.3 Billion Intangible Asset Depreciation Expense Concealment – Intervention Urgently Required

Dear Senator Warren and Senator Whitehouse:

On behalf of The Buxton Helmsley Group, Inc. ("**BHG**" or "**we**"), I address this letter to you both (given your seats on the Senate's Finance Committee) in reference to Mallinckrodt Plc. ("**Mallinckrodt**" or the **"Company**"), whose common stock securities are traded on the New York Stock Exchange under the ticker symbol "MNK". BHG, for reference, is a boutique investment management firm located in New York City. Recently, BHG was also involved in uncovering (and publicly exposing) violations of financial disclosure requirements, discrepancies, improperly disclosed self-dealing by insiders, and stark violations of fiduciary duty, which led up to the August 12, 2022, Chapter 11 bankruptcy filing of Endo International Plc. (formerly, NASDAQ: ENDP).[1]

Today, BHG issued an open letter to Mallinckrodt's board of directors and executives, after a lengthy investigation into the Company's accounting discrepancies that began coming to light shortly after the Company filed for Chapter 11 protection on October 12, 2020. After the conclusion of BHG's full investigation, it is very apparent that Mallinckrodt failed in its obligation to disclose over $2 billion in known intangible asset value depreciation within the Company's financial statements filed with the Commission, in violation of GAAP ASC 350, 360, and – therefore – dually in violation of Regulation S-X (which requires public companies to comply with GAAP, among its numerous additional

[1] A summary of BHG's involvement in Endo International Plc., along with a brief timeline, may be found at: https://www.buxtonhelmsley.com/alexander-parker

catch-all disclosure requirements/provisions). While the "intangible assets, net" line item on a balance sheet is very clear to require reflection of the value of "intangible assets, **net**" of accumulated depreciation, Mallinckrodt's balance sheets did not incorporate the Company's knowledge of billions of dollars in asset value depreciation (financial losses), *even after* they began to come clean in the bankruptcy court about these losses.

Mallinckrodt not only:

- Has been coined the "kingpins"[2] of opioid manufacturing (as evidenced by *The Washington Post's* article footnoted here, engaging a serious lack of ethics in the course of opioid-related sales, never condoned by investors);
- Defrauded (as was officially ruled by a United States court) the Medicare system with an illegal base AMP (average manufacturer price) setting scheme related to the Company's Acthar Gel product (resulting in fraudulently inflated earnings, which positively impacted the incentive compensation of insiders over that period of the scheme); and
- Very apparently defrauded their own investors.

GAAP and Regulation S-X require the immediate disclosure of financial losses and does not give management a "hall pass" to delay disclosure of losses within Commission filings for *over a year* after management has determined a write-down of asset value to be required based on then-current financial forecasts. The time when revenues are being booked in real-time, but financial losses are booked far belatedly (in this case, over a year after ~$2 billion asset value write-down was already determined to be required), financial statements will serve to have no purpose.

Mallinckrodt insiders began professing knowledge of "hopeless insolvency" from the time they entered the Bankruptcy Court, but – at the onset – blamed entirely speculative liability risk as being the reason why the Company's common equity shares were worthless. The story did not add up, with equity shares being certified to have net asset value on the balance sheet of over $1 billion, after having listed all anticipated reorganization payouts on the liability side of the Company's Commission-filed balance sheets; simply put, the Company either was not disclosing all of its asset value, or was apparently improperly certifying asset value to exist, when they apparently knew it did not (then, having depreciated more than they were disclosing accumulated depreciation/losses of). The Company had also signed onto a restructuring support agreement which implied a known asset value shortfall (that, or the Company was concealing known asset value from stakeholders). Shortly thereafter (but only after the Company successfully knocked out motions for appointment of committees to represent the certified-to-be-secured interests of junior bondholders and equity holders), the Company then changed its story (from blaming insolvency on entirely speculative liability risks) and began to profess its total asset value was billions of dollars less compared to what Mallinckrodt's insiders were simultaneously certifying in Commission filings. BHG then took it upon itself, given its fiduciary status toward the financial interests of its clients, by beginning to probe the Company in both public and private letters (some of the private letters, made public in Schedule 13(d) filings with the Commission). **By October 2021, the Company began to point public investors (within the Company's letters to BHG, which were publicly disseminated) back to the Commission filings for a measure of net asset equity value (which was derived by a "total assets" value billions of dollars higher than the Company was professing for an enterprise value in the Bankruptcy Court).** The Company's executives then began flip-flopping between the two wildly different enterprise values, since BHG had pegged the

[2] *The Washington Post* – "The 'kingpin' of opioid makers": https://www.washingtonpost.com/podcasts/post-reports/the-kingpin-of-opioid-makers/

Company's directors on an arguable offense under Irish law (as an Ireland-incorporated entity) if the story of total asset value in the Bankruptcy Court were the truth. In October 2021, BHG publicly called on the U.S. Securities and Exchange Commission, via an open letter accompanied by a press release, to investigate the Company's seemingly false statements of financials (BHG still, at that point, was not sure if the Company was concealing asset value from the Bankruptcy Court or concealing asset value depreciation from Commission filings). **Days after BHG's October 2021 open letter to the Commission (demanding an investigation of the impossible, wildly varying financial discrepancies coming out of the Company), the Company's Senior Vice President of Finance, Ms. Kathleen Schaefer, abruptly resigned from her position. Days after Ms. Schaefer's departure, the Company's Senior Vice President and Chief Communications Officer, Ms. Brandi Robinson, was silently removed from the Company's website.** BHG publicly railed the Company over its abrupt executive departures and called on further resignations of the Company's board of directors, through open letters. On August 11, 2022, the staggering truth of the Company's asset values was unearthed. The Company suddenly made a massive, over $2 billion write-down of intangible assets, putting the Company's balance sheet directly in line with the asset value losses that the Company had been long professing knowledge of in the Bankruptcy Court, but continued omitting from Commission filings. **The Company had detected the "triggering event" related to that $2 billion asset value impairment/depreciation over a year before (at the very latest, as of the Company's May 13, 2021, disclosure statement filing with the bankruptcy court), and apparently fraudulently abstained from disclosing (via a write-down of intangible assets) that already-determined financial loss (intangible asset depreciation).**

Mallinckrodt opted to delay coming clean to the Bankruptcy Court as to the truth of why they were in bankruptcy (again, blaming entirely speculative liability risk before confessing to billions of dollars in asset value depreciation not being reported in Commission filings). The Company's leadership (both the board of directors and management) had the obligation to not present financial reporting to its auditor (for an opinion to be expressed on), Deloitte, without those financial statements being reflective of the asset value best known as existing for the benefit of creditors/investors (net of accumulated depreciation, as required by GAAP ASC 350, 360, and Regulation S-X). The Company's leadership apparently knew they were not reporting the truth in Commission filings, were even caught in the act by BHG, and *continued* to overstate the value of intangible assets of the Company by billions of dollars within Commission filings. The Company's "intangible assets, net" line item on the balance sheet, was not net of accumulated depreciation at all; a far cry from it. That line item is absolutely worthless (an utter fairy tale), and reported in very apparent violation of GAAP ASC 350, 360, and Regulation S-X, when intangible asset value impairment/depreciation is known to exist (where the carrying value of those assets is known to exceed the true/actual fair value of the assets), but the depreciation/impairment charge is not accrued.

BHG, in its letter today to the Company (made public simultaneous to this letter being delivered to your offices), lays out that the Company not only apparently defrauded its pre-reorganization investors, but also – **by the Company's own prior-professed "strong eviden[tiary]" standard (under the leadership of the same Chief Financial Officer, Mr. Bryan Reasons) – is apparently concealing billions of dollars from its post-reorganization financial statements, all over again. BHG would typically argue that a management is miserably failing to communicate value if its securities are trading at a nickel on the dollar compared to their certified book value, but this Company has already proven it simply does not report losses as they are falling – they set the "strong eviden[tiary]" standard that they will apparently keep losses to themselves, and will not come clean about them until *after* they file for bankruptcy. They have already also proclaimed that the open market trading values of the Company's structure are the "strong evidence" of the true, fair value of assets, more so than the Company's Commission-filed balance sheets, if there is a**

discrepancy. The picture (in numerous ways) is the same now (actually, worse) as when the Company was compelled to file for bankruptcy, and the Company has already proclaimed that such a discrepancy is the "strong evidence" to prove the fair value of the capital structure, yet they are – once again – failing to write off billions of dollars in balance sheet value that is "strong[ly] evidence[d]" not to exist any longer. Nothing this Company reports to investors or the Commission adds up, and they endlessly contradict themselves; they have arguably destroyed the integrity of the Company's financial reporting. The Company has experienced numerous "triggering events" (requiring assessment of asset value impairment, under GAAP ASC 350 and 360) since emergence from reorganization, the Company's issued securities have dropped precipitously below book value (with the Company's stock trading further below its book value, on a percentage basis, than when the Company was compelled to file for bankruptcy in October 2020), and – while the public markets are adjusting for the new valuation of the assets/value securing the Company's capital structure, given the occurrence of those "triggering events" – the Company is failing to appropriately write down assets (to reflect the billions of dollars "strong[ly] evidence[d]" enterprise value losses) on the books of the Company themselves, yet again.

Within BHG's letter to the Company issued today, **the Company's Chief Financial Officer, Mr. Bryan Reasons, was discovered – after the extensive investigation conducted by BHG – to not even currently possess the Certified Public Accountant certification which he is purported to possess on Mallinckrodt's website.** Not only on Mallinckrodt's website, but he is also said to be a Certified Public Accountant on the website of Societal C.D.M.O. (NASDAQ: SCTL), where he serves on the board of directors (aside from his position at Mallinckrodt). He does not even update the Company's financials to reflect his evidenced knowledge of financial losses (particularly, with regard to asset value depreciation). What *does* Mr. Reasons update to reflect the material truth of his knowledge, BHG asks? It is not hard to see how the Company has – so far – successfully not only carried out the over $2 billion pre-reorganization asset depreciation concealment scheme, and is "strong[ly] evidence[d]" to be concealing billions of dollars in asset value depreciation all over, when the Company's board of directors is not even doing the basic due diligence of making sure executives actually possess the licenses/credentials that the Company is leading investors to believe they possess.

It should not come as a surprise that it is a lesser-known investment firm raising this serious matter of fraud to your attention; after all, numerous of the largest names in finance, even with full "due diligence" teams, failed to detect Bernard Madoff's fraud, in the face of numerous red flags waving in abundance and with fury (an auditor – far too small to adequately audit a $64 billion fund – working out of a strip mall, Madoff charging no performance fee for such "outperformance", not wanting his identity disclosed on any feeder fund investor documents… all red flags that the slightest application of common sense should have triggered the "best in the industry" to pull their investments, yet that did not happen).

BHG has, simultaneous to this letter, filed two whistleblower reports with the Commission; one related to the Company's pre-reorganization apparent accounting misconduct, and another related to the apparent post-reorganization accounting misconduct, "strong[ly] evidence[d]" by the Company's own prior-professed evidentiary standard, as you will see in the letter BHG issued to the Company today. We have also written you here, however, as we believe it is our public duty (as a party knowledgeable in these matters) to ensure that something is done, and we know that may take some pressure from your offices; the Senate Finance Committee serves a vital role in prodding appropriate action to be taken on such great matters of public harm. How am I supposed to tell BHG's clients that they should be investing in the capital markets, when companies are booking revenues in real-time and losses far belatedly (over a year after "triggering events" for depreciation are detected, over a year after that asset value write-down is already determined to be required)? How can investors even determine *what* to invest in when such flim-flam

accounting is happening at public companies? How can investors know what asset value to fight for in a reorganization, when the Commission filings of public companies do not reflect all material knowledge of insiders, as GAAP and Regulation S-X require?

BHG is open to further conversation on these matters, should the Senate Finance Committee wish to discuss these issues. We believe you will, after review of these materials, see it necessary to appropriately question the Company's leadership responsible for such inexcusably apparent accounting misconduct. Investors will not make capital investments, when it is seen to be accepted that corporate insiders do not get appropriately punished for filing what appear to be materially false financial statements; very apparently defrauding both the Commission and public investors (not to mention, the Company's auditors). BHG also, through its experience on this matter and others, would be open to conversation with the Senate Finance Committee as to changes in legislation (some, quite simple) that would very materially deter such schemes as this from repeating over the course of the future. **This is, unfortunately, one of two apparent multibillion-dollar asset depreciation concealment frauds BHG has been investigating; the other scheme involving the concealment of approximately $10.8 billion in asset value (*97% of the PP&E line item being utter fairy dust*, as a result of concealed deprecation, in violation of GAAP ASC 360 and Regulation S-X). BHG is willing to discuss the fraud at that Company, as well, should you (and the Senate Finance Committee) wish to hear about it.**

On behalf of BHG and the public investors we are advocating for here, we greatly appreciate your prompt attention and action toward these matters of immense public importance.

Very Respectfully,

Alexander E. Parker
Senior Managing Director
The Buxton Helmsley Group, Inc.

CC (by post and e-mail): U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Mr. Gary Gensler, Chairman
Ms. Hester M. Peirce, Commissioner
Mr. Mark T. Uyeda, Commissioner
Mr. Jaime Lizárraga, Commissioner
Ms. Caroline A. Crenshaw, Commissioner

Attn: Office of the Whistleblower
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Disclaimer: *The Buxton Helmsley Group, Inc., in addition to certain of its affiliates and clients, as well as certain non-clients it has been in communication with, hold short positions (and/or beneficial interests in such positions) in securities of and/or relating to Mallinckrodt Plc. which may generate profits in the event of declines in the market value of certain securities issued by Mallinckrodt Plc. BHG, despite its clients and affiliates already suffering severe losses as a result of the pre-reorganization securities fraud scheme alleged above, intends to make a donation to a charity focused on fighting the effects of the opioid crisis, in the event of BHG realizing a net profit due to the decline in market value of post-reorganization securities issued by Mallinckrodt plc.*