

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

HESAM PIRJAMAAT,	)	
	)	
Plaintiff,	)	
	)	Case No. _____
v.	)	
	)	JURY TRIAL DEMANDED
SENECA BIOPHARMA, INC., KENNETH	)	
C. CARTER, CRISTINA CSIMMA, MARY	)	
ANN GRAY, DAVID MAZZO, BINXIAN	)	
WEI, TOWNSGATE ACQUISITION SUB I,	)	
INC., and LEADING BIOSCIENCES, INC.,	)	
	)	
Defendants.	)	

**COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934**

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

**NATURE OF THE ACTION**

1. On December 16, 2020, Seneca Biopharma, Inc.’s (“Seneca” or the “Company”) Board of Directors (the “Board” or “Individual Defendants”) caused Seneca to enter into an agreement and plan of merger (the “Merger Agreement”) with Townsgate Acquisition Sub 1, Inc. (“Merger Sub”) and Leading BioSciences, Inc. (“Leading BioSciences” or “LBS”).

2. Pursuant to the terms of the Merger Agreement, among other things: (i) Merger Sub will merge with and into Leading BioSciences, with Leading BioSciences surviving as a wholly-owned subsidiary of Seneca; and (ii) each share of Leading BioSciences’ common stock will be converted into shares of Seneca common stock (the “Proposed Transaction”).

3. On December 23, 2020, defendants filed a Form S-4 Registration Statement (the “Registration Statement”) with the United States Securities and Exchange Commission (“SEC”) in connection with the Proposed Transaction.

4. The Registration Statement omits material information with respect to the Proposed Transaction, which renders the Registration Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Registration Statement.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(a) and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391(b) because a portion of the transactions and wrongs complained of herein occurred in this District.

### **PARTIES**

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Seneca common stock.

9. Defendant Seneca is a Delaware corporation and a party to the Merger Agreement. Seneca’s common stock is traded on the NASDAQ, which is headquartered in New York, New York, under the ticker symbol “SNCA.”

10. Defendant Kenneth C. Carter is Chairman of the Board of the Company.
11. Defendant Cristina Csimma is a director of the Company.
12. Defendant Mary Ann Gray is a director of the Company.
13. Defendant David Mazzo is a director of the Company.
14. Defendant Binxian Wei is a director of the Company.
15. The defendants identified in paragraphs 10 through 14 are collectively referred to herein as the “Individual Defendants.”
16. Defendant Merger Sub is a Delaware corporation, a wholly-owned subsidiary of Seneca, and a party to the Merger Agreement.
17. Defendant Leading BioSciences is a Delaware corporation and a party to the Merger Agreement.

### **SUBSTANTIVE ALLEGATIONS**

#### ***Background of the Proposed Transaction***

18. On December 16, 2020, Seneca’s Board caused the Company to enter into the Merger Agreement with Merger Sub and Leading BioSciences.
19. Pursuant to the terms of the Merger Agreement, among other things: (i) Merger Sub will merge with and into Leading BioSciences, with Leading BioSciences surviving as a wholly-owned subsidiary of Seneca; and (ii) each share of Leading BioSciences’ common stock will be converted into shares of Seneca common stock.
20. According to the press release announcing the Proposed Transaction:  
  
Seneca Biopharma, Inc. (Nasdaq: SNCA) (“Seneca”), and Leading BioSciences, Inc. (“LBS”), a privately held company focused on developing novel therapeutics to improve human health through therapeutic protection of the gastrointestinal (“GI”) mucosal barrier, announced today that they have entered into a definitive agreement under which a wholly owned subsidiary of Seneca will merge with LBS in an all-stock transaction. The combined company will focus on advancing LBS’s

lead pipeline asset, LB1148, in clinical studies to evaluate its potential to improve restoration of normal GI function following major surgery and reduce certain postoperative complications such as abdominal adhesions. Upon completion of the merger, the company is expected to operate under the name Palisade Bio, Inc. and trade on the Nasdaq Capital Market under the ticker symbol PALI. . . .

#### About the Proposed Transaction

The merger is structured as a stock-for-stock transaction whereby all of LBS's outstanding shares of capital stock and securities exercisable for LBS's common stock will be exchanged for Seneca common stock and securities exercisable for Seneca common stock. On a pro forma basis and based upon the number of shares of Seneca common stock to be issued or issuable in the merger, it is anticipated that Seneca equity holders immediately following the merger will own approximately 26.2% of the combined company and LBS equity holders (inclusive of investors in the financing) immediately following the merger will own approximately 73.8% of the combined company on a fully diluted basis using an adjusted treasury stock method.

Shareholders of Seneca will also receive one contingent value right ("CVR") for each share of Seneca common stock (including any warrants exercisable for shares of Seneca common stock) as a dividend. This will entitle the holder to receive, in certain circumstances, a certain percentage the net proceeds, if any, derived from the sale or license of the intellectual property of Seneca. Full details of the CVR agreement will be contained in Seneca's S-4 to be filed with the SEC.

Final share exchange allocations will be subject to adjustment based on Seneca's net cash balance at the time of closing. The transaction has been approved by the board of directors of both companies. The merger is expected to close in the first half of 2021 subject to the approval of Seneca stockholders at a special stockholder meeting, the approval of LBS stockholders, the closing of the financing, as well as other customary conditions.

Solebury Trout LLC is acting as financial advisor to Seneca for the transaction and Silvestre Law Group, P.C. is serving as legal counsel to Seneca. Evolution Venture Partners is acting as financial advisor to LBS, and Cooley LLP is serving as legal counsel to LBS.

#### ***The Registration Statement Omits Material Information, Rendering It False and Misleading***

21. Defendants filed the Registration Statement with the SEC in connection with the Proposed Transaction.
22. As set forth below, the Registration Statement omits material information.

23. First, the Registration Statement omits the Company's and LBS's financial projections.

24. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion.

25. Second, the Registration Statement omits material information regarding the analyses performed by the Company's financial advisor in connection with the Proposed Transaction, Cassel Salpeter & Co., LLC ("CS").

26. With respect to CS's Selected Companies Analysis, the Registration Statement fails to disclose: (i) the individual multiples and metrics for the companies observed in the analysis; and (ii) CS's basis for assigning an implied equity value reference range for LBS of \$58,400,000 to \$87,600,000 in the aggregate.

27. With respect to CS's Selected Initial Public Offerings Analysis, the Registration Statement fails to disclose: (i) the individual multiples and metrics for the IPOs observed in the analysis; (ii) CS's basis for applying a multiple range of 0.7x to 1.0x; and (iii) CS's basis for assigning an implied equity value reference range for LBS of \$58,100,000 to \$82,900,000 in the aggregate.

28. When a banker's endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed.

29. Third, the Registration Statement omits material information regarding the process leading up to the execution of the Merger Agreement.

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