

Steve Burd

From: Bob Gordon
Sent: Tuesday, March 19, 2013 12:41 PM
To: Elizabeth Holmes
Cc: Steve Burd
Subject: Theranos - Invoice for Inventory Pre-Purchase

Elizabeth,

Steve Burd sent to me your email correspondence with him regarding an invoice for \$25 million for "Pre-purchase commitment." My understanding is that this payment is not yet due under the contract (executed 9/20/10). Schedule B, section 10.c provides:

Pilot Success Pre-Purchase Commitment. Upon Safeway notifying Theranos that it has determined, in its sole discretion, that the pilot of the Program has been successful, Safeway agrees to pay an addition twenty-five million dollars (\$25 million) to pre-purchase an additional approximate 1,785,715 units of Inventory (the "Third Inventory Payment" and collectively with the Initial Inventory Payment and the Second Inventory Payment, the "Inventory Payments").

The pilot has not yet occurred, and Safeway has not sent Theranos a notice that it has determined, in its sole discretion, that the pilot has been successful. Those conditions must first occur before Safeway's \$25 million pre-purchase commitment is payable. Therefore, we do not believe that payment is due at this time.

Could you please explain your reasons for believing that the payment is now due? Safeway does not wish to be in default of any obligation under the contract, and if you believe we are in default or in danger of being in default, we would appreciate your pointing to the provisions of the contract or other facts that give rise to this situation. We are at a loss to understand why Theranos believes this payment is due now.

We remain hopeful that the pilot will begin soon and that it will be a success. If and when the conditions set forth in the contract occur, we will be ready and willing to make any required payments and otherwise fulfill our obligations under the contract.

I look forward to your response.

Bob