
STATE OF WISCONSIN,

Plaintiff,

Case No. 04-CV-1709

Unclassified - Civil: 30703

v.

AMGEN INC., et al.,Defendants.

**NOVARTIS PHARMACEUTICALS CORPORATION'S
RESPONSES AND OBJECTIONS TO THE PLAINTIFF'S FIRST SET OF
CONSOLIDATED DISCOVERY REQUESTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Statutes §§ 804.01, 804.08, and 804.09, the Wisconsin Supreme Court Rules, and the Dane County Circuit Court Rules (collectively, the "Wisconsin Rules"), Defendant Novartis Pharmaceuticals Corporation ("NPC"), by its undersigned counsel, responds as follows (the "Responses") to Plaintiff State of Wisconsin's First Set of Consolidated Discovery Requests to All Defendants served on or about May 15, 2008 (the "Interrogatories" and the "Requests"):

GENERAL OBJECTIONS

A. By responding to these Interrogatories and Requests, NPC does not waive or intend to waive: (i) any objections as to the competency, relevancy, materiality, or admissibility as evidence, for any purpose, of any information provided in response to these Interrogatories and Requests; (ii) the right to object on any ground to the use of the information provided in response to these Interrogatories and Requests at any hearing or trial; (iii) the right to object on any ground at any time to a demand for further responses to these Interrogatories and Requests; or (iv) the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

B. NPC objects to each Interrogatory and Request to the extent that they purport to seek information protected by the attorney-client privilege, work-product doctrine, common-interest doctrine, joint-defense privilege, or any other applicable privileges or protections.

C. By responding that it will provide information or documents in response to a particular Interrogatory or Request, NPC does not warrant that it has responsive materials or that such materials exist, only that it will conduct a reasonable search and make available responsive, non-privileged information or documents. No objection, or lack thereof, is an admission by NPC as to the availability or unavailability of any information, or the existence or non-existence of any documents. Where NPC has already identified specific information or documents responsive to a particular Interrogatory or Request and states that it will produce responsive documents “including” certain specifically identified information or documents, “including” means “including but not limited to.”

D. These Responses are based on NPC’s investigation to date of those sources within its control where it reasonably believes responsive information or documents may exist. NPC reserves the right to amend or supplement these Responses in accordance with the Wisconsin Rules with additional information, documents, or objections that may become available or come to NPC’s attention, and to rely upon such information, documents, or objections in any hearing, trial, or other proceeding in this litigation.

E. NPC objects to Plaintiff’s “Definitions” and “Instructions” to the extent that they purport to expand upon or alter NPC’s obligations under the Wisconsin Rules.

F. NPC objects to each Interrogatory and Request that purports to require NPC to identify and/or produce “all” information or documents described by such Interrogatory or Request as unduly burdensome, cumulative, duplicative, and vexatious on its face. NPC will search for and produce information or documents sufficient to provide the information or data sought by specific Interrogatories or Requests, and where appropriate (*i.e.*, where non-identical documents provide additional relevant information), NPC will identify and/or produce such information or documents.

G. NPC objects to these Interrogatories and Requests to the extent that they seek information not contained in documents that currently exist at NPC and purport to require NPC to create, compile or develop new documents.

H. NPC objects to these Interrogatories and Requests to the extent that they seek production of information or documents not in NPC’s possession, custody or control, publicly available information, information or documents equally available to Plaintiff, or information or documents more appropriately sought from third parties to whom subpoenas or requests could be or have been directed.

I. NPC objects to these Interrogatories and Requests to the extent that they seek information about conduct outside of the State of Wisconsin.

J. Given the confidential and proprietary nature of the information requested, NPC’s provision of information is subject to and in reliance upon the Protective Order limiting the scope of disclosure, review, and dissemination of documents entered in this action by the Circuit Court for Dane County on November 29, 2005.

K. NPC objects to these Interrogatories and Requests to the extent that they seek information outside the limitations periods applicable to the claims in the Second Amended Complaint, or beyond the time period relevant to this litigation, on the grounds that such information is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. In addition, NPC objects to these Interrogatories and Requests to the extent they purport to require NPC to search for and produce information pertaining to the time period prior to January 1, 1997, the date NPC was created by operation of merger following approval by the Federal Trade Commission on December 17, 1996, or after September 30, 2003, the date on which the State of Nevada's Second Amended Complaint in *State of Nevada v. Am. Home Prods. Corp., et al.*, Cause No.CV-N-02-0202-ECR (D. Nev.), brought by the Nevada Attorney General and containing similar allegations against NPC as those alleged by Plaintiff, was publicly filed, thereby placing the Plaintiff on notice, no later than that date, of the allegations against NPC, on the grounds that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. NPC's provision of any information pertaining to the time period before January 1, 1997, or after September 30, 2003, does not constitute a waiver of this objection.

L. NPC hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any other Defendant in this action to the extent such objection or reservation of rights is not inconsistent with NPC's position in this action.

M. The information provided in response to these Interrogatories and Requests is for use in this litigation and for no other purpose.

OBJECTIONS TO DEFINITIONS

1. The term “document” means any writing or recording of any kind, including, without limitation, agendas, agreements, analyses, announcements, audits, booklets, books, brochures, calendars, charts, contracts, correspondence, electronic-mail (e-mail), facsimiles (faxes), film, graphs, letters, memos, maps, minutes (particularly Board of Directors and/or Executive Committee meeting minutes), notes, notices, photographs, reports, schedules, summaries, tables, telegrams, and videotapes, in any medium, whether written, graphic, pictorial, photographic, electronic, phonographic, mechanical, taped, saved on a computer disk, hard drives, data tapes, or otherwise, and every non-identical copy. Different versions of the same document, such as different copies of a written record bearing different handwritten notations, are different documents within the meaning of the term as used. In case originals or original non-identical copies are not available, “document” includes copies of originals or copies of non-identical copies as the case may be.

N. NPC objects to the definition of “document” as set forth in Definition No. 1 to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, NPC’s obligations under the Wisconsin Rules.

2. The term “identify,” when used in reference to a natural person, means to state the person’s:
 - (a) first and last name;
 - (b) current or last-known job title;
 - (c) current or last-known business address;
 - (d) current or last-known business telephone number;
 - (e) current or last-known home address; and
 - (f) current or last-known home telephone number.

O. NPC objects to the definition of “identify” as set forth in Definition No. 2 on the grounds that it is overly broad and unduly burdensome. NPC further objects to Definition No. 2 to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, NPC’s obligations under the Wisconsin Rules.

3. The term “incentive” means anything of value provided to a consumer or other party to induce that customer to purchase, promote, prescribe, dispense, or administer a pharmaceutical (see definition below) or course of treatment; to reward a customer or other party for purchasing, promoting prescribing, dispensing or administering a pharmaceutical or course of treatment; or which had, will have, or is intended to have, the effect of lowering the cost of a pharmaceutical to the customer in any way, regardless of the time “incentive” was provided (for example, at the time of invoicing, shipment, or

payment, or monthly, quarterly, annually, or at any other time or any other basis) and regardless of its name. As used in this definition, the term “customer or other party” includes, but is not limited to, a drug wholesaler, physician, clinic, store chain, pharmacy, pharmaceutical benefit manager, hospital, federal or state government agency, health maintenance organization, or other managed care organization. The term “incentive” therefore includes, but is not limited to, payments or proposed payments in cash or in kind; chargebacks (see definition above); credits; discounts such as return-to-practice discounts, prompt-pay discounts, volume discounts, on-invoice discounts, or off-invoice discounts; rebates such as market-share rebates, access rebates, or bundled-drug rebates; free goods or samples; administrative fees or administrative-fee reimbursements; marketing fees; stocking fees; conversion fees; patient education fees; off-invoice pricing; educational or other grants; research funding; payments for participation in clinical trials; honoraria; speaker’s fees or payments; patient education fees; or consulting fees.

P. NPC objects to the definition of “incentive” as set forth in Definition No. 3 on the grounds that the terms “anything of value,” “customer or other party,” “other managed care organization,” “credits,” “discounts,” “return-to-practice discounts,” “prompt-pay discounts,” “volume discounts,” “on-invoice discounts,” “off-invoice discounts,” “rebates,” “market-share rebates,” “access rebates,” “bundled-drug rebates,” “free goods or samples,” “administrative fees or administrative-fee reimbursements,” “marketing fees,” “stocking fees,” “conversion fees,” “patient education fees,” “off-invoice pricing,” “educational or other grants,” “research funding,” “clinical trials,” “honoraria,” “speaker’s fees,” “patient education fees,” and “consulting fees” are vague and ambiguous. NPC further objects to Definition No. 3 on the grounds that it is overly broad and unduly burdensome to the extent that it purports to include items that are irrelevant to the “cost of a pharmaceutical to the customer.” NPC also objects to Definition No. 3 to the extent that it purports to set an accurate or legally significant definition of “incentive” or suggest that “customers” as defined by Plaintiff are customers that take possession of drugs and/or are reimbursed for drugs by Wisconsin Medicaid.

4. The term “you,” “your,” “your company” means each defendant, its domestic or foreign parents, and any other affiliated company, subsidiary, division, joint venture or other entity having at least 10% ownership interest in defendant; defendant’s agents,

independent contractors, directors, employees, officers, and representatives; and merged, consolidated or acquired predecessors; and any other person or entity acting on behalf of defendant.

Q. NPC objects to Definition No. 4 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence and states that all responses herein are on behalf of Defendant Novartis Pharmaceuticals Corporation only.

OBJECTIONS TO INSTRUCTIONS FOR INTERROGATORIES

1. In answering these interrogatories, you are required to furnish all information that is available to you or subject to reasonable inquiry by you, including information in your possession, or the possession of your attorneys, and anyone else subject to your, or your attorneys' control.

R. NPC objects to Instruction for Interrogatories No. 1 to the extent that it seeks to impose on NPC any obligation in conflict with or beyond those imposed by the Wisconsin Rules. NPC further objects to Instruction No. 1 to the extent that it purports to seek information protected by the attorney-client privilege, work product doctrine, common-interest doctrine, joint-defense privilege, or any other applicable privileges or protections. In addition, NPC objects to Instruction No. 1 on the grounds that it is unduly burdensome, cumulative, duplicative, and vexatious on its face in that it purports to require NPC to provide "all" available information in its possession.

2. These interrogatories should always be interpreted to be inclusive rather than exclusive, including interpreting the following as appropriate: the singular form of a word as plural, and vice versa; and "and" to include "or," and vice versa; the past tense to include the present tense, and vice versa.

3. In responding to these interrogatories, preface each answer by restating the interrogatory to which it is addressed. If an interrogatory has subparts, answer each subpart separately and in full and do not limit your answer to the interrogatory as a whole. If you are unable to answer an interrogatory fully, submit as much information as is available, explain why your answer is incomplete, and state the source or sources from which a complete or more complete answer may be obtained.

4. You have a duty to seasonably supplement or amend any answer or response whenever new or additional information subsequently becomes known to you.

S. NPC objects to Instructions for Interrogatories Nos. 2-4 to the extent that they seek to impose on NPC any obligation in conflict with or beyond those imposed by the Wisconsin Rules.

OBJECTIONS TO INSTRUCTIONS FOR REQUESTS FOR ADMISSIONS

1. Each matter of which admission is requested is admitted unless, within 30 days after service of the request, you serve upon plaintiff a written answer or objection addressed to the matter, signed by you or your attorney.
2. If objection is made, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder.
3. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny.
4. If you consider that a matter of which an admission has been requested presents a genuine issue for trial, you may not, on that ground alone, object to the request.
5. If you fail or refuse to admit the truth of any request of fact hereinafter set forth, and the Plaintiff hereafter proves its truth, you may be required to pay the reasonable expenses incurred by the Plaintiff in making such proof, including attorneys' fees.

T. NPC objects to Instructions for Requests for Admissions Nos. 1-5 to the extent that they seek to impose on NPC any obligation in conflict with or beyond those imposed by the Wisconsin Rules.

OBJECTIONS TO INSTRUCTIONS FOR REQUESTS FOR PRODUCTION OF DOCUMENTS

1. You have a duty to seasonably supplement any response to the extent of documents which subsequently come into your possession or control or become known to you.

U. NPC objects to Instruction for Request for Production of Documents No. 1 to the extent that it seeks to impose any obligation in conflict with or beyond those imposed by the Wisconsin Rules. NPC states that it will search for and produce documents in accordance with the Wisconsin Rules.

OBJECTIONS TO INSTRUCTIONS FOR ALL DISCOVERY REQUESTS

1. If you object, in whole or in part, to any request for admission, interrogatory, or request for production of documents, state with specificity the full objection(s) and the particularized basis for each objection. To the extent that you object to any portion of an interrogatory, you must respond to the remaining portion of the interrogatory to which you do not object.

2. If you object, in whole or in part, to any request for admission, interrogatory, or request for production of documents in whole or in part on the basis of any claimed privilege, provide the following information for each communication or information for which you claim a privilege:
 - (a) the type of communication or information (e.g., meeting, phone call, letter, data);
 - (b) the date of the communication or information;
 - (c) the identity of the author of any written communication, the speaker of any oral communication or the source of any information;
 - (d) the identity of all persons who received or had access to any written communication or information and all persons present during any oral communication;
 - (e) the subject matter of the communication or information;
 - (f) the location of any information, written communication and recordings of any oral communication; and
 - (g) the factual and legal basis on which you claim privilege.

V. NPC objects to Instructions for All Discovery Requests Nos. 1-2 to the extent that they seek to impose on NPC any obligation in conflict with or beyond those imposed by the Wisconsin Rules.

**SPECIFIC OBJECTIONS AND RESPONSES TO
CONSOLIDATED DISCOVERY REQUESTS**

NPC incorporates by reference each of the foregoing General Objections, Objections to Definitions, Objections to Instructions for Interrogatories, Objections to

Instructions for Requests for Admission, Objections to Instructions for Request for Production of Documents, and Objections to Instructions for All Discovery Requests in each of the following Responses and Objections to Individual Requests for Admission, Interrogatories, and Requests for Production of Documents as if fully set forth within each. To the extent that NPC states that it will search for and produce documents responsive to any Request, such statement is made subject to, and without waiver or limitation of, all Objections.

CONSOLIDATED DISCOVERY REQUEST NO. 1

REQUEST FOR ADMISSION NO. 1: At no time has the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank average wholesale prices (“AWPs”) for your drugs that were not the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: NPC objects to Request for Admission No. 1 on the ground that the terms and phrases “practice,” “explicitly approved,” and “true average prices” are vague and ambiguous. NPC further objects to Request for Admission No. 1 on the ground that it rests on incorrect assumptions of fact and/or law in that it: (i) incorrectly assumes that AWP is anything other than a benchmark; (ii) incorrectly assumes that NPC required approval from the State of Wisconsin, its Department of Health & Family Services, or any employee thereof regarding NPC’s price reporting methodologies; and (iii) incorrectly assumes that NPC has knowledge of the average prices that wholesalers charged their customers for NPC drugs. Subject to and without waiving the foregoing General and Specific Objections, NPC states that it lacks sufficient knowledge to admit or deny Request for Admission No. 1, because complete information about whether “the State of Wisconsin, its Department of Health & Family Services, or any employee thereof” has or has not at any time “explicitly approved” NPC’s price reporting methodologies is not presently within NPC’s knowledge or control, and discovery is still ongoing.

INTERROGATORY NO. 1: If your response to Request for Admission No. 1 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;
- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

RESPONSE TO INTERROGATORY NO. 1: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 1 in its Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Produce all documents identified in your response to Interrogatory No. 1.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 1 in its Response to Request for Production of Documents No. 1.

CONSOLIDATED DISCOVERY REQUEST NO. 2

REQUEST FOR ADMISSION NO. 2: At no time has the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank suggested wholesale prices (“SWPs”) for your drugs that were not the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: NPC objects to Request for Admission No. 2 on the ground that the terms and phrases “practice,” “explicitly approved,” “suggested wholesale prices,” and “true average prices” are vague and ambiguous. NPC further

objects to Request for Admission No. 2 on the ground that it rests on incorrect assumptions of fact and/or law in that it: (i) incorrectly assumes that NPC provided “suggested wholesale prices” or “SWPs” to First DataBank; and (ii) incorrectly assumes that NPC has knowledge of the average prices that wholesalers charged their customers for NPC drugs. NPC also objects to Request for Admission No. 2 on the ground that SWP is not relevant to Plaintiff’s claims because Wisconsin Medicaid did not use SWP for reimbursement of prescription drugs. Subject to and without waiving the foregoing General and Specific Objections, NPC denies Request for Admission No. 2 because NPC did not provide “suggested wholesale prices” or “SWPs” to First DataBank. NPC further states that the broadcast faxes that NPC provided to First DataBank contained AWP benchmarks and that First DataBank published these AWP benchmarks as Suggested Wholesale Prices or “SWPs.” NPC also states that broadcast faxes that contained AWP benchmarks generally also included a statement relating to AWP (the “AWP statement”). Although the exact wording of the AWP statement changed slightly over the years, the central message remained the same. Each AWP statement expressly provided that AWP is not intended to represent an actual price charged by NPC to any customer. For example, NPC’s March 27, 2000 broadcast fax (which was produced in this litigation with the production numbers NPC-AGC005717505 - NPC-AGC00571715) states:

As used in this letter, the term AWP or Average Wholesale Price constitutes a reference for each Novartis product, and in keeping with current industry practices, is set as a percentage above the price at which each product is offered generally to wholesalers. Notwithstanding, the inclusion of the term “price,” in Average Wholesale Price, AWP is not intended to be a price charged by Novartis for any product to any customer.

INTERROGATORY NO. 2: If your response to Request for Admission No. 2 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;
- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

RESPONSE TO INTERROGATORY NO. 2: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 2 in its Response to Interrogatory No. 2.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: Produce all documents identified in your Response to Interrogatory No. 2.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 2 in its Response to Request for Production of Documents No. 2.

CONSOLIDATED DISCOVERY REQUEST NO. 3

REQUEST FOR ADMISSION NO. 3: At not time has the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank wholesale acquisition costs (“WACs”) for your drugs that were not the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: NPC objects to Request for Admission No. 3 on the ground that the terms and phrases “practice,” “discounts,” “rebates,” “explicitly approved,” “true average prices,” and “net of” are vague and ambiguous. NPC

further objects to Request for Admission No. 3 on the ground that it rests on incorrect assumptions of fact and/or law in that it: (i) incorrectly assumes that WAC is anything other than a list price for NPC's drugs; (ii) incorrectly assumes that "chargebacks" are discounts to wholesalers; and (iii) incorrectly assumes that NPC required approval from the State of Wisconsin, its Department of Health & Family Services, or any employee thereof regarding NPC's price reporting methodologies. NPC also objects to Request for Admission No. 3 on the ground that it is overly broad and unduly burdensome in that Wisconsin Medicaid did not use WAC for reimbursement of prescription drugs. Subject to and without waiving the foregoing General and Specific Objections, NPC states that it lacks sufficient knowledge to admit or deny Request for Admission No. 3, because complete information about whether "the State of Wisconsin, its Department of Health & Family Services, or any employee thereof" has or has not at any time "explicitly approved" NPC's price reporting methodologies is not presently within NPC's knowledge or control, and discovery is still ongoing.

INTERROGATORY NO. 3: If your response to Request for Admission No. 3 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;
- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

RESPONSE TO INTERROGATORY NO. 3: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 3 in its Response to Interrogatory No. 3.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Produce all documents identified in your Response to Interrogatory No. 3.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 3 in its Response to Request for Production of Documents No. 3.

CONSOLIDATED DISCOVERY REQUEST NO. 4

REQUEST FOR ADMISSION NO. 4: The average wholesale prices (“AWPs”) that you reported to First DataBank for your drugs were not the true average prices charged by wholesalers to their customers for your drugs. Rather, the AWP’s that you reported to First DataBank for your drugs were more than the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: NPC objects to Request for Admission No. 4 on the ground that the term “true average prices” is vague and ambiguous. NPC further objects to Request for Admission No. 4 on the ground that it rests on incorrect assumptions of fact and/or law in that it: (i) incorrectly assumes that AWP is anything other than a benchmark; and (ii) incorrectly assumes that NPC has knowledge of the average prices that wholesalers charged their customers for NPC drugs. Therefore, Request for Admission No. 4 cannot be simply admitted or denied. NPC states that it is unaware of the prices that wholesalers charged to their customers for its drugs, so it is unable to determine whether the AWP’s that it provided to First DataBank for its drugs were not equal to either the wholesalers’ list prices for such drugs to their customers or to the transaction prices between wholesalers and their customers for such drugs, but NPC believes that transaction prices between wholesalers and retailers are often lower than the AWP benchmarks it reports to First DataBank.

INTERROGATORY NO. 4: If your response to Request for Admission No. 4 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE TO INTERROGATORY NO. 4: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 4 in its Response to Interrogatory No. 4.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4: Produce all documents identified in your Response to Interrogatory No. 4.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 4 in its Response to Request for Production of Documents No. 4.

CONSOLIDATED DISCOVERY REQUEST NO. 5

REQUEST FOR ADMISSION NO. 5: The suggested wholesale prices (“SWPs”) that you reported to First DataBank for your drugs were not the true average prices charged by wholesalers to their customers for your drugs. Rather, the SWPs that you reported to First DataBank for your drugs were more than the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: NPC objects to Request for Admission No. 5 on the ground that the term “true average prices” is vague and ambiguous. NPC further objects to Request for Admission No. 5 on the ground that it rests on incorrect assumptions of fact and/or law in that it: (i) incorrectly assumes that NPC provided “SWPs” to First DataBank; and (ii) incorrectly assumes that NPC has knowledge of the average prices that wholesalers charged their customers for NPC drugs. NPC also objects to Request for Admission No. 5 on the ground that SWP is not relevant to Plaintiff’s claims because Wisconsin Medicaid did not use SWP for reimbursement of prescription drugs. Subject to and without waiving the foregoing General and Specific Objections, NPC denies Request for Admission No. 5 because NPC did not provide “Suggested Wholesale Prices” or “SWPs” to First DataBank. NPC further

states that the broadcast faxes that NPC provided to First DataBank contained AWP benchmarks and that First DataBank published these AWP benchmarks as Suggested Wholesale Prices or “SWPs.” NPC also states that broadcast faxes that contained AWP benchmarks generally also included a statement relating to AWP (the “AWP statement”). Although the exact wording of the AWP statement changed slightly over the years, the central message remained the same. Each AWP statement expressly provided that AWP is not intended to represent an actual price charged by NPC to any customer. For example, NPC’s March 27, 2000 broadcast fax (which was produced in this litigation with the production numbers NPC-AGC005717705 - NPC-AGC00517715) states:

As used in this letter, the term AWP or Average Wholesale Price constitutes a reference for each Novartis product, and in keeping with current industry practices, is set as a percentage above the price at which each product is offered generally to wholesalers. Notwithstanding, the inclusion of the term “price,” in Average Wholesale Price, AWP is not intended to be a price charged by Novartis for any product to any customer.

INTERROGATORY NO. 5: If your response to Request for Admission No. 5 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE TO INTERROGATORY NO. 5: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 5 in its Response to Interrogatory No. 5.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5: Produce all documents identified in your Response to Interrogatory No. 5.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5: Subject to and without waiving the foregoing General Objections, NPC incorporates its Response to Request for Admission No. 5 in its Response to Request for Production of Documents No. 5.

CONSOLIDATED DISCOVERY REQUEST NO. 6

REQUEST FOR ADMISSION NO. 6: The wholesale acquisition costs (“WACs”) that you reported to First DataBank for your drugs were not the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs. Rather, the WACs that you reported to First DataBank for your drugs were more than the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: NPC objects to Request for Admission No. 6 on the ground that the terms “true average prices,” “discounts,” and “rebates” are vague and ambiguous. NPC further objects to Request for Admission No. 6 on the ground that it rests on incorrect assumptions of fact in that it: (i) incorrectly assumes that “chargebacks” are discounts to wholesalers; and (ii) incorrectly assumes that WAC is anything other than a list price. NPC also objects to Request for Admission No. 6 on the ground that it is overly broad and unduly burdensome in that Wisconsin Medicaid did not use WAC for reimbursement of prescription drugs. Subject to and without waiving the foregoing General and Specific Objections, NPC denies Request for Admission No. 6 and further states that it provided Wholesaler Price and/or Cost Price to Wholesaler information to First DataBank, which First DataBank published as WAC.

INTERROGATORY NO. 6: If your response to Request for Admission No. 6 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE TO INTERROGATORY NO. 6: NPC incorporates its objections to Request for Admission No. 6 in its Response to Interrogatory No. 6. Subject to and without waiving the foregoing General and Specific Objections, NPC states that has previously produced to Plaintiff,

and is producing concurrently with these Responses, direct sales data, chargeback data, and commercial rebate and other credit data, for each NPC drug at issue in this case, from which answers to Interrogatory No. 6 can be derived in accordance with Wis Stat. § 804.08(3).

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6: Produce all documents identified in your Response to Interrogatory No. 6.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6: NPC incorporates its objections to Interrogatory No. 6 in its Response to Request for Production of Documents No. 6. Subject to and without waiving the foregoing General and Specific Objections, NPC states that it has previously produced to Plaintiff, and is producing concurrently with these Responses, direct sales data, chargeback data, and commercial rebate and other credit data, for each NPC drug at issue in this case, responsive to Request for Production of Documents No. 6.

Dated this 16th day of June, 2008.

AS TO OBJECTIONS:

Respectfully submitted

Novartis Pharmaceuticals Corporation

By its attorneys,

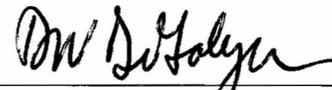


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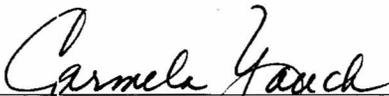
VERIFICATION

I, Donald W. DeGolyer, am Senior Vice President, U.S. Managed Markets, for Novartis Pharmaceuticals Corporation. I have been authorized by Novartis Pharmaceuticals Corporation to provide this verification on its behalf. I have reviewed the above interrogatory responses contained in Novartis Pharmaceuticals Corporation's Responses and Objections to Plaintiff State of Wisconsin's First Set of Consolidated Discovery Requests to All Defendants, which were prepared in reliance on information from officers, agents, employees and/or records of Novartis Pharmaceuticals Corporation. The interrogatory responses are true and correct to the best of my knowledge, information, and belief.



DONALD W. DEGOLYER

Subscribed and sworn to before me
this 12th day of June 2008.



Notary Public, State of New Jersey

CARMELA YAUCH
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Jan. 3, 2009

STATE OF WISCONSIN

CIRCUIT COURT
Branch 7

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

Case No. 04-CV-1709
Unclassified - Civil: 30703

v.

AMGEN INC., et al.,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2008, a true and correct copy of Novartis Pharmaceuticals Corporation's Responses and Objections to Plaintiff State of Wisconsin's First Set of Consolidated Discovery Requests To All Defendants was served on all counsel of record via LexisNexis File and Serve.

I also certify that I caused a true and correct copy of this document to be served by First Class Mail upon the following attorneys:

Atty. P. Jeffrey Archibald
Atty. Charles Barnhill
Atty. William P. Dixon
Atty. Cynthia R. Hirsch
Atty. Robert S. Libman

Dated this 16th day of June, 2008.


Christine A. Braun