

STATE OF WISCONSIN,)
)
 Plaintiff,)
)
 v.)
)
 ABBOTT LABORATORIES, ET AL.,)
)
 Defendants.)

Case No.: 04 CV 1709

RESPONSES AND OBJECTIONS BY SMITHKLINE BEECHAM CORPORATION, D/B/A GLAXOSMITHKLINE (“GSK”) TO PLAINTIFF’S SEVENTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendant SmithKline Beecham Corporation, d/b/a GlaxoSmithKline (“GSK”), by its attorneys, hereby asserts the following responses and objections (“Responses” and “Objections”) to Plaintiff State of Wisconsin’s (“Plaintiff’s” or the “State’s”) Seventh Set of Requests for Production of Documents to All Defendants (“Requests”) as follows:

PRELIMINARY STATEMENT

1. By responding to these Requests, GSK does not waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any documents or information produced in response; (b) the right to object on any ground to the use of the documents or information produced in response at any hearing, trial, or other point during the litigation; or (c) the right to object on any ground at any time to a demand for further responses to the Requests.

2. By responding to a particular Request, GSK does not assert that it has responsive documents or information or that such documents or information exist, only that it will conduct a

reasonable inquiry if such documents or information are not known and provide the documents or information if they are responsive, non-objectionable and non-privileged. No objection made herein, or lack thereof, is an admission by GSK as to the existence or non-existence of any document or information.

3. The Responses made herein are based on GSK's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist. GSK reserves the right to amend or supplement these Responses in accordance with applicable law and Court orders in this action.

4. GSK reserves the right to modify these Objections and Responses and to present in any proceeding and at trial any further documents and information obtained during discovery and preparation for trial.

GENERAL OBJECTIONS

GSK expressly incorporates all of the general objections set forth below into each Response to the Requests. Any specific objections provided below are made in addition to these general objections and failure to reiterate a general objection below does not constitute a waiver of that or any other objection.

GSK objects generally as follows:

1. GSK objects to Plaintiff's "Definitions" and "Instructions" to the extent that they expand upon or alter GSK's obligations under applicable law and court rules. GSK will comply with the applicable law and rules in providing its Responses and Objections.

2. GSK objects to each and every Request to the extent that it is irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the

extent that it purports to require production of documents or information relating to pharmaceuticals not properly placed at issue in this litigation.

3. GSK objects to each and every Request to the extent that it seeks documents or information protected by the attorney-client privilege, work-product doctrine, critical self-analysis privilege and/or self-evaluative privilege, common-interest doctrine, joint-defense privilege, or any other applicable privileges or protections, and to the extent these Requests seek trial preparation and expert materials. GSK hereby asserts these privileges to their fullest extent and no statement or answer herein shall constitute waiver thereof. Any document or information subject to any such privilege that is inadvertently produced by GSK shall not constitute or be deemed a waiver of such privilege or protection, and GSK reserves its rights to demand the return of any inadvertently produced document or information.

4. GSK objects to each and every Request to the extent that it seeks documents or information protected by the rights of free speech and/or association under the First Amendment to the U.S. Constitution, any provisions of the Wisconsin constitution, or any applicable constitution, statute or law of any jurisdiction protecting such rights.

5. GSK objects to each and every Request to the extent that it seeks documents or information which were compiled for and presented during compromise negotiations, including the court-ordered mediation in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.). GSK hereby asserts these privileges and protections to their fullest extent and no statement or answer herein shall constitute waiver thereof. Any document or information subject to any such privileges and protections that is inadvertently or otherwise produced by GSK shall not constitute or be deemed a waiver of such privileges or

protections, and GSK reserves its rights to demand the return of any inadvertently produced document or information.

6. GSK objects to each and every Request to the extent that it seeks documents or information concerning a trade secret, proprietary or other confidential information, and are not otherwise subject to a protective order entered by the Court in this litigation.

7. GSK objects to each and every Request to the extent that it seeks documents or information that GSK received from third parties and cannot produce or disclose without prior approval of the third-parties.

8. GSK objects to each and every Request to the extent that it seeks documents or information that do not currently exist at GSK.

9. GSK objects to each and every Request to the extent that it purports to require GSK to create, compile, or develop documents or information not already in existence.

10. GSK objects to each and every Request to the extent that it seeks production of documents or information not in GSK's custody or control, publicly available documents or information, documents or information equally available to the Plaintiff, or documents or information more appropriately sought from third-parties to whom subpoenas or requests could have been directed.

11. GSK objects to each and every Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that they purport to require production of documents or seek information relating to a period of time prior to June 3, 1998 (which is outside of any applicable statute of limitations) and/or after June 3, 2004, the date Plaintiff filed its original Complaint in this case.

12. GSK objects to each and every Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent it seeks documents or information concerning Kytril® after December 22, 2000, the date on which GSK's predecessor, SmithKline Beecham, sold Kytril® to Hoffman-La Roche Inc.

13. GSK objects to each and every Request to the extent that it seeks documents or information that are not relevant to this litigation or are not reasonably calculated to lead to the discovery of admissible evidence.

14. GSK objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests. Any Response by GSK is not intended to indicate that GSK agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests, or that such implications or characterizations are relevant to this action.

15. Subject to and without waiving any objection set forth herein, GSK will produce non-privileged, responsive documents as set forth below at a time and place and in a manner to be agreed upon by the parties.

16. GSK objects to the definition of "you," "your" and "your company" as set forth in Definition No. 1 on the grounds that it is vague, ambiguous and overbroad.

17. GSK objects to the definition of "Document" as set forth in Definition No. 2 on the grounds that it is vague, ambiguous and overbroad and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. GSK further objects to this definition to the extent that its purports to require GSK to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or

produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by GSK as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION

DOCUMENT REQUEST NO. 22: All documents relating to your purchase, license, or receipt, of pricing information, including but not limited to average wholesale prices (“AWPs”) or wholesale acquisition costs (“WACs”) from First DataBank, Red Book, or Medispan for your drugs or the drugs of your competitors, including but not limited to contracts or license agreements. This request includes, but is not limited to, your purchase, license, or receipt of First DataBank's National Drug Data File (“NDDF”). In addition, this request includes, but is not limited to, contracts or license agreements between you and First DataBank, Red Book, or Medispan, as well as contracts or license agreements between you and any other party that provides pricing information from First DataBank, Red Book, or Medispan (for example, agreements between you and DMD America in connection with its “Analysource” product).

RESPONSE TO REQUEST NO. 22: In addition to its General Objections, which are incorporated herein by reference, GSK objects to this Request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence, including in particular with respect to the requests for documents concerning pricing compendia not used by the Wisconsin Medicaid program or for documents that are otherwise not related to the Wisconsin Medicaid program. GSK also objects to Document Request No. 22 on the grounds that the following terms or phrases are vague, ambiguous and undefined: “documents relating to,” “purchase, license, or receipt,” “contracts or license agreements,” and “any other party that provides pricing information.” GSK objects to this Request on the ground that it seeks documents and information that are proprietary and that GSK cannot produce or disclose without prior approval from third parties. GSK further objects to this Request to the extent it seeks the

production of documents that are protected by the attorney-client privilege, the work-product doctrine, the joint defense privilege, and/or any other applicable privilege or protection.

Subject to and without waiving the Preliminary Statement, General Objections, and Specific Objections, GSK will meet and confer with Plaintiff regarding the production of certain responsive, non-privileged documents which GSK has previously produced in other AWP litigation.

Dated: March 5, 2008

Respectfully submitted,

By: 

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STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

STATE OF WISCONSIN,

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Case No.: 04 CV 1709

Plaintiff,

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ABBOTT LABORATORIES, ET AL.,

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Defendants.

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the **RESPONSES AND OBJECTIONS BY SMITHKLINE BEECHAM CORPORATION, D/B/A GLAXOSMITHKLINE ("GSK") TO PLAINTIFF'S SEVENTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** by SmithKline Beecham Corporation, d/b/a GlaxoSmithKline ("GSK"), to be served on counsel of record by transmission to LNFS pursuant to Order dated December 20, 2005.

Dated this 5th day of March, 2008.



Richard J. Cutler