

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DIET DRUGS )  
(PHENTERMINE/FENFLURAMINE/  
DEXFENFLURAMINE) PRODUCTS )  
LIABILITY LITIGATION )

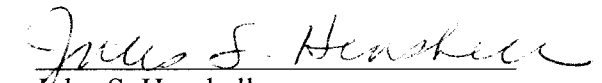
MDL No. 1203

SHEILA BROWN, et al. v. AMERICAN )  
HOME PRODUCTS CORPORATION )

CIVIL ACTION No. 99-20593

**REPORT OF THE AUDIT OF THE SETTLEMENT TRUST  
FOR THE YEAR ENDED DECEMBER 31, 2007**

Pursuant to paragraph 2 of Court Approved Procedure 8, the AHP Settlement Trust hereby files this Report of the audited financial statements of the Trust for the year ended December 31, 2007.

  
Jules S. Henshell  
Executive Director for Legal Affairs  
AHP Settlement Trust  
555 North Lane  
Suite # 6045  
Conshohocken, PA 19428  
(610)-729-0830

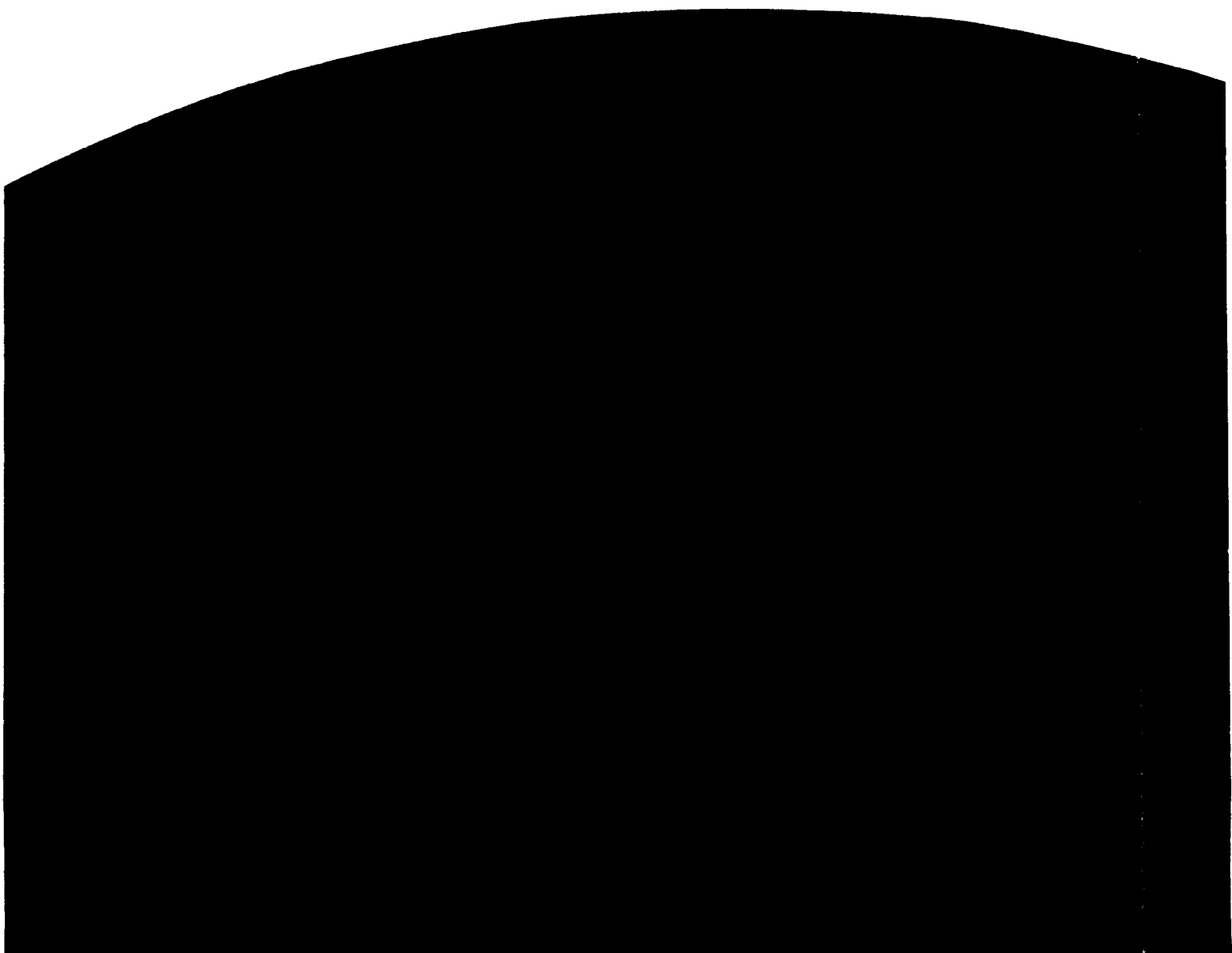
Date: March 27, 2008

**McGladrey & Pullen**

Certified Public Accountants

## **AHP Settlement Trust**

Financial Report  
December 31, 2007



**AHP Settlement Trust**

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# McGladrey & Pullen

Certified Public Accountants

## Independent Auditor's Report

To the Trustee of the  
AHP Settlement Trust  
Conshohocken, Pennsylvania

We have audited the accompanying statement of net assets available for claims of AHP Settlement Trust as of December 31, 2007 and the related statement of changes in net assets available for claims and cash flows for the year then ended. These financial statements are the responsibility of the Trust's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of AHP Settlement Trust as of December 31, 2007, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As described in Note 2 to the financial statements, the December 31, 2006 net assets have been restated to correct an error related to improper recording of funding received from Wyeth.

*McGladrey & Pullen, LLP*

Blue Bell, Pennsylvania  
March 26, 2008

AHP Settlement Trust

Statement of Net Assets Available for Claims  
December 31, 2007

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**Assets**

Cash and cash equivalents	\$ 22,432,150
Subrogation Fund - cash and cash equivalents	7,000,000
Accrued interest receivable	141,659
Due from Wyeth	9,133,246
Prepaid expenses and other assets	<u>796,103</u>
<b>Total assets</b>	<u><b>39,503,158</b></u>

**Liabilities**

Accounts payable and accrued expenses	542,663
Claims in course of settlement	<u>21,425,434</u>
<b>Total liabilities</b>	<u><b>21,968,097</b></u>
<b>Net assets available for claims</b>	<u><u><b>\$ 17,535,061</b></u></u>

See Notes to Financial Statements.

**AHP Settlement Trust**

**Statement of Changes in Net Assets Available for Claims  
Year Ended December 31, 2007**

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<b>Additions</b>	
Settlement funds from Wyeth	\$ 100,872,284
Investment income	<u>2,559,059</u>
Total additions	<u>103,431,343</u>
<b>Deductions</b>	
Benefit payments	89,137,764
Claims administration expenses	6,702,740
General and administrative expenses	<u>7,831,819</u>
Total deductions	<u>103,672,323</u>
<b>Decrease in net assets available for claims</b>	(240,980)
Net assets available for claims:	
Beginning of year as previously reported	19,862,973
Prior-period adjustment (Note 2)	<u>(2,086,932)</u>
Beginning, as restated	<u>17,776,041</u>
Ending	<u>\$ 17,535,061</u>

See Notes to Financial Statements.

AHP Settlement Trust

Statement of Cash Flows  
Year Ended December 31, 2007

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Cash Flows from Operating Activities	
Decrease in net assets available for claims	\$ (240,980)
Adjustments to reconcile decrease in net assets available for claims to net cash used in operating activities:	
Depreciation	229,137
Changes in operating assets and liabilities:	
(Increase) decrease in:	
Subrogation Fund - cash and cash equivalents	(1,246)
Accrued interest receivable	167,627
Due from Wyeth	385,618
Prepaid expenses and other assets	33,645
Decrease in:	
Accounts payable and accrued expenses	(1,334,094)
Claims in course of settlement	(14,832,768)
	<hr/>
<b>Net cash used in operating activities</b>	<b>(15,593,061)</b>
Net cash used in investing activities, purchases of equipment	<hr/>
	(93,131)
	<hr/>
<b>Decrease in cash and cash equivalents</b>	<b>(15,686,192)</b>
Cash and cash equivalents, beginning	<hr/>
	38,118,342
Cash and cash equivalents, ending	<hr/>
	<b>\$ 22,432,150</b>

See Notes to Financial Statements.

## AHP Settlement Trust

### Notes to Financial Statements

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#### Note 1. Description of the Trust

The AHP Settlement Trust (the "Trust") was established by order of The United States District Court for the Eastern District of Pennsylvania on September 2, 2000, effective as of September 1, 2000. It is a Qualified Settlement Fund as described in Section 468B of the Internal Revenue Code and Regulations thereunder. The Trust's fiscal year ends on December 31.

On November 18, 1999, American Home Products Corporation ("AHP") which, on March 11, 2002 changed its name to Wyeth, and representatives of a purported class and subclasses in litigation which was pending in various courts and arising from the marketing, sale, distribution and use of the diet drugs Pondimin(R) and Redux(TM) (the "Diet Drugs") agreed to and proposed a nationwide class action settlement to resolve claims against AHP and other released parties on the terms set forth in a Settlement Agreement, as subsequently amended (the "Settlement Agreement"). The Settlement Agreement called for the creation of a settlement trust to receive the funds to be paid by AHP pursuant to the Settlement Agreement and to administer the provision of benefits to the settlement class under the terms of the Settlement Agreement. The Settlement Agreement calls for monies held in the Trust's estate to be invested as directed by the Trustee.

The maximum additional amount as of December 31, 2007 that Wyeth may be called upon to pay for the purpose of funding Matrix benefits is approximately \$1,278,640,000 adjusted pursuant to the Settlement Agreement, which calls for accretions on the adjusted amount at 1.5% per quarter less potential credits against such amounts arising from payments and from certain opt out and other credits. On January 18, 2002, Wyeth established a Security fund to partially guarantee this obligation. At December 31, 2007, the Security Fund had an approximate market value of \$956.2 million.

Any assets remaining at the end of the Trust's term are to be donated to heart research facilities.

This Description of the Trust is not intended to be a legal interpretation of the benefits available to class members or others; nor is it a legal description of the obligations of any parties to the Settlement Agreement. A complete description of the rights and benefits of any parties and class members must be derived from the Settlement Agreement as amended and associated Pre-Trial Orders. All applicable documents can be found at [www.settlementdietdrugs.com](http://www.settlementdietdrugs.com).

#### Note 2. Restatement

During 2007, the Trust's management discovered errors in the 2006 financial statements. Prior to 2007, the Trust did not properly record the liability for unpaid benefit payments which had been funded by Wyeth. Rather, the receipts had been included in Additions on the Statement of Changes in Net Assets Available for Claims.

Additionally, the Trust did not properly match claims administration expenses and general and administrative expenses with the reimbursement from Wyeth. The net effect of these errors overstated the increase in net assets available for claims for the year ended December 31, 2006 by \$2,086,932 and also overstated Net Assets Available for Claims as of December 31, 2006 by \$2,086,932.



## AHP Settlement Trust

### Notes to Financial Statements

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#### Note 3. Summary of Significant Accounting Policies

Use of Estimates: The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Trust to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents: Cash and cash equivalents include all highly liquid investments with original maturities of three months or less. Cash equivalents consist primarily of overnight repurchase agreements.

Property: Property, including computer software, is recorded at cost. Depreciation and amortization are computed using the straight-line method over estimated useful lives ranging from two to five years. Property is included in prepaid expenses and other assets in the accompanying statement of net assets available for claims.

Income Taxes: The Trust is organized as a qualified settlement fund as described in Section 468B of the Internal Revenue Code and Regulations thereunder. As a result, the Trust is subject to federal income taxes based on modified gross income, as defined by the Code. The Trust is subject to state income taxes only in the State of New Jersey, based on the proportion of claimants that reside in New Jersey.

Benefit Payments: Benefit payments are recorded as an expense when approved for payment by the Trust.

Claims in Course of Settlement: Claims in course of settlement are accruals for claims that have completed all phases of the claim payment review process, including approval, but have not yet been paid.

Claims Administration Expenses: Claims administration expenses represent costs associated with the settlement and payment of claims.

#### Note 4. Investments

Investment expenses included in general and administrative expenses in the statement of changes in net assets available for claims were \$139,125 for the year ended December 31, 2007.

#### Note 5. Subrogation Fund and Funds Held in Escrow

Subrogation Fund: The Trust has been ordered by the Court to set aside \$7 million in a separate account, which may be used to satisfy certain obligations that may arise as a result of claims that may be made by governmental agencies and entities in the nature of subrogation (Note 9). Release of funds from this account is permitted only upon a final order of the Court that is not subject to appeal. Funds held in the account are invested in cash equivalents.

Common Benefit Attorney Escrow: In accordance with the Settlement Agreement, the total gross Matrix payments due Class Members is reduced by nine percent. This amount is maintained outside of the Trust in a Common Benefit Attorney escrow. All or a portion of such amount may be awarded to certain attorneys designated in the Settlement Agreement as Class Counsel or as Common Benefit Attorneys. The portion not awarded to Class Counsel or to Common Benefit Attorneys will be distributed to Class Members or their individual attorneys.

## AHP Settlement Trust

### Notes to Financial Statements

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#### Note 6. Property

A summary of property at December 31, 2007 is as follows:

Equipment	\$ 430,992
Computer systems/software	5,426,093
Furniture and fixtures	326,293
Leasehold improvements	123,542
	<u>6,306,920</u>
Less: accumulated depreciation and amortization	<u>6,178,175</u>
	<u>\$ 128,745</u>

#### Note 7. Income Taxes

The Trust had approximately \$213,777,000 of net operating loss carryforwards for income tax purposes as of December 31, 2007. The carryforwards expire in 2019 through 2027.

The Trust had a deferred tax asset of \$74,822,000 at December 31, 2007 arising primarily from the carryforward of the net operating losses. The Trust recorded a valuation allowance for the entire deferred tax asset as it is uncertain that the deferred tax asset will be realized.

#### Note 8. Leases

The Trust leases office space and uses certain equipment under various operating leases. Rental expense under such arrangements was approximately \$374,000 for the year ended December 31, 2007.

The following is a schedule of future minimum lease payments on noncancelable operating leases as of December 31, 2007:

<u>For the Year Ending December 31,</u>	
2008	\$ 301,763
2009	283,257
2010	289,781
2011	296,305
2012	302,828
2013	37,955
	<u>\$ 1,511,889</u>

## AHP Settlement Trust

### Notes to Financial Statements

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#### Note 9. Subrogation

On March 21, 2001, the Court that is supervising the Settlement ordered the Trust to set aside \$7 million from Fund B in a separate account that may, subject to further proceedings, be utilized in the event that the United States government establishes an interest in proceeds of Matrix awards made to class members. The reserve arises from a determination made by the Court on the question of whether it was necessary for the Trust to await a determination of whether certain class members owed money to the government before the Trust could make benefit payments to those class submembers. The Court determined that it was not necessary for the Trust to do so, yet ordered the Trust to set aside the reserve described herein. The reserve may be distributed only upon order of the Court. The settlement agreements provided that this fund shall also be available to Wyeth as a further indemnity from and against any claims, suits or demands asserted by any Third Party Payor arising out of, or relating to, the payment of medical expenses or provision of medical services by such Third Party Payor, or the failure of the Fund Administrator or Wyeth to pay the Third Party Payor.

#### Note 10. Retirement Plan

The Trust has a retirement plan under which eligible employees may defer a portion of their annual compensation, pursuant to Section 401(k) of the Internal Revenue Code. The Trust matches 100 percent of the employee's contributions up to 3 percent of employee's overall compensation, and 50 percent of employee's contribution between 3 and 5 percent of employee's overall compensation for each plan year. All permanent, full-time employees with at least six months of service and who have attained the age of 21 are eligible to participate. Trust contributions to the plan amounted to \$103,407 for the year ended December 31, 2007.

#### Note 11. Severance Benefit Plans

The Trust established a Severance Benefit Plan covering full-time employees. According to the provisions of the plan, eligible employees may receive severance payments under certain conditions upon termination of employment. The amount of the severance payments is based on the length of the employee's service as well as the employee's position level. Severance payments range from one week to nine weeks of the employee's salary as of the date of termination.

The Trust established an Executive Retention Plan covering certain executives employed by the Trust. The retention benefits to be paid to certain executives upon termination of employment range from six months to twelve months of the executive's salary as of the date of termination.

#### Note 12. Uncertainties

Claims and Availability of Funds to Pay Them from the Net Assets of the Trust: The ultimate liability for all claims is not determinable at this time. Net assets available for claims at December 31, 2007 represent excess of funding received for claims and administrative expenses over amounts paid.

The deadlines for filing of some claims have not yet come to pass, and there are class members who are seeking relief from certain deadlines that have come to pass.

## AHP Settlement Trust

### Notes to Financial Statements

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#### Note 12. Uncertainties (Continued)

Claims and Availability of Funds to Pay Them from the Net Assets of the Trust (Continued): Net assets available for the payment of Matrix claims and associated administrative expenses at December 31, 2007, are to be supplemented, pursuant to the Settlement Agreement as in effect at that date, by contributions from AHP or withdrawals from the Security Fund as and when it becomes necessary to have additional funds to pay claims and to maintain an Administrative Reserve. The maximum amount required to be paid by Wyeth or that may be made available to the Trust from the Security Fund may or may not be sufficient to pay all claims for Matrix benefits that have been or will be submitted to the Trust and that are, upon processing and review, determined to be valid and well founded.

Court Jurisdiction: The Court that has jurisdiction over the Trust and the administration of the Settlement Agreement has ordered that it retains continuing jurisdiction to, among other things, interpret and enforce the Settlement Agreement in accordance with its terms. Pursuant to its continuing jurisdiction, the Court has imposed and may impose certain financial obligations on the Trust that are not foreseen at this time, and could approve certain amendments to the Settlement Agreement that would provide material benefits to the Trust and its beneficiaries or otherwise materially alter the operations and financial position of the Trust.

**CERTIFICATE OF SERVICE**

Jules S. Henshell hereby certifies that on March 27, 2008, he caused a true and correct copy of the Report of the Audit of the Settlement Fund for the Year Ended December 31, 2007, to be filed with and made available for viewing and downloading on the Court's ECF system and to be further served by first-class mail upon the following:

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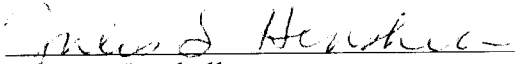
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\_\_\_\_\_  
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