

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

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

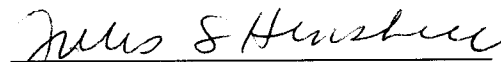
MDL No. 1203

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

CIVIL ACTION No. 99-20593

**REPORT OF THE AUDIT OF THE SETTLEMENT TRUST
FOR THE YEAR ENDED DECEMBER 31, 2008**

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, 2008.



Jules S. Henshell
AHP Settlement Trust
555 North Lane
Suite #6045
Conshohocken, PA 19428
(610)-729-7927

Date: March 30, 2009

McGladrey & Pullen

Certified Public Accountants

AHP Settlement Trust

Financial Report
December 31, 2008

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 statements of net assets available for claims of AHP Settlement Trust as of December 31, 2008 and 2007, and the related statements of changes in net assets available for claims and cash flows for the years 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 audits.

We conducted our audits 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 audits provide 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, 2008 and 2007 and the changes in its net assets available for claims and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

McGladrey & Pullen, LLP

Blue Bell, Pennsylvania
March 26, 2009

AHP Settlement Trust

**Statements of Net Assets Available for Claims
December 31, 2008 and 2007**

	2008	2007
Assets		
Cash and cash equivalents	\$ 21,877,279	\$ 22,432,150
Subrogation Fund - cash and cash equivalents	7,000,000	7,000,000
Accrued interest receivable	-	141,659
Due from Wyeth	3,770,807	9,133,246
Prepaid expenses and other assets	614,464	796,103
Total assets	33,262,550	39,503,158
Liabilities		
Accounts payable and accrued expenses	611,367	542,663
Claims in course of settlement	13,099,091	21,425,434
Common benefit fee refunds payable	1,719,050	-
Total liabilities	15,429,508	21,968,097
Net assets available for claims	\$ 17,833,042	\$ 17,535,061

See Notes to Financial Statements.

AHP Settlement Trust

Statements of Changes in Net Assets Available for Claims Years Ended December 31, 2008 and 2007

	2008	2007
Additions		
Settlement funds	\$ 128,764,204	\$ 100,872,284
Investment and other income	1,103,993	2,559,059
Total additions	<u>129,868,197</u>	<u>103,431,343</u>
Deductions		
Benefit payments	54,224,979	89,137,764
Common benefit fee refunds	51,161,844	-
Litigation expense reimbursements	14,226,055	-
Claims administration expenses	3,918,737	6,702,740
General and administrative expenses	6,038,601	7,831,819
Total deductions	<u>129,570,216</u>	<u>103,672,323</u>
Increase (decrease) in net assets available for claims	297,981	(240,980)
Net assets available for claims:		
Beginning	<u>17,535,061</u>	<u>17,776,041</u>
Ending	<u>\$ 17,833,042</u>	<u>\$ 17,535,061</u>

See Notes to Financial Statements.

AHP Settlement Trust

Statements of Cash Flows Years Ended December 31, 2008 and 2007

	2008	2007
Cash Flows from Operating Activities		
Increase (decrease) in net assets available for claims	\$ 297,981	\$ (240,980)
Adjustments to reconcile increase (decrease) in net assets available for claims to net cash used in operating activities:		
Depreciation	90,466	229,137
Changes in operating assets and liabilities:		
(Increase) decrease in:		
Subrogation Fund - cash and cash equivalents	-	(1,246)
Accrued interest receivable	141,659	167,627
Due from Wyeth	5,362,439	385,618
Prepaid expenses and other assets	261,195	33,645
Increase (decrease) in:		
Accounts payable and accrued expenses	68,704	(1,334,094)
Claims in course of settlement	(8,326,344)	(14,832,768)
Common benefit fee refunds payable	1,719,050	-
Net cash used in operating activities	(384,850)	(15,593,061)
Net cash used in investing activities, purchases of equipment	(170,021)	(93,131)
Decrease in cash and cash equivalents	(554,871)	(15,686,192)
Cash and cash equivalents, beginning	22,432,150	38,118,342
Cash and cash equivalents, ending	\$ 21,877,279	\$ 22,432,150

See Notes to Financial Statements.

AHP Settlement Trust

Notes to Financial Statements

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, 2008 and 2007 that Wyeth may be called upon to pay for the purpose of funding Matrix benefits is approximately \$1,311,101,634 and \$1,278,640,000, respectively, 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, 2008 and 2007, the Security Fund had an approximate market value of \$947 million and \$956.2 million, respectively.

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.

Note 2. 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 funds invested in United States Treasury Bills and in money market accounts invested in United States Treasury obligations.

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.

AHP Settlement Trust

Notes to Financial Statements

Note 2. Summary of Significant Accounting Policies (Continued)

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 3. Investments

Investment expenses included in general and administrative expenses in the statements of changes in net assets available for claims were \$21,386 and \$139,125 for the years ended December 31, 2008 and 2007, respectively.

Note 4. Settlement Funds Received

During 2008 and 2007, the Trust received settlement funds from the following sources:

	2008	2007
Wyeth	\$ 31,434,645	\$ 100,872,284
Common Benefit Attorney Escrow (Note 12)	86,742,450	-
Supplemental Class Settlement Fund (1)	10,587,109	-
	<u>\$ 128,764,204</u>	<u>\$ 100,872,284</u>

(1) On April 8, 2008, the Court approved a Joint Motion filed by the Fund Administrator, Class Counsel and the Seventh Amendment Liaison Committee for judicial authorization to make a final distribution of the Supplemental Class Settlement Fund established under the terms of the Seventh Amendment to the Settlement Agreement ("Seventh Amendment"). The Court authorized the Fund Administrator to distribute \$10,587,109 from the Supplemental Class Settlement Fund to the Trust for prior payments made by the Trust to certain Class Members during the pendency of the Seventh Amendment.

AHP Settlement Trust

Notes to Financial Statements

Note 5. Property

A summary of property at December 31, 2008 and 2007 is as follows:

	2008	2007
Equipment	\$ 319,461	\$ 430,992
Computer systems/software	3,815,732	5,426,093
Furniture and fixtures	92,413	326,293
Leasehold improvements	53,644	123,542
	<u>4,281,250</u>	<u>6,306,920</u>
Less: accumulated depreciation and amortization	4,072,948	6,178,175
	<u>\$ 208,302</u>	<u>\$ 128,745</u>

Note 6. Income Taxes

The Trust had approximately \$222,804,000 and \$213,777,000 of net operating loss carryforwards for income tax purposes as of December 31, 2008 and 2007, respectively. The carryforwards expire in 2019 through 2028.

The Trust had a deferred tax asset of \$77,980,000 and \$74,822,000 at December 31, 2008 and 2007, respectively, 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 7. Leases

The Trust leases office space and uses certain equipment under various operating leases that expire through 2013. Rental expense under such arrangements was approximately \$312,000 and \$374,000 for the years ended December 31, 2008 and 2007, respectively.

The following is a schedule of future minimum lease payments on noncancelable operating leases as of December 31, 2008:

<u>Years Ending December 31,</u>	
2009	\$ 282,985
2010	289,509
2011	296,033
2012	302,557
2013	50,607
	<u>\$ 1,221,691</u>

AHP Settlement Trust

Notes to Financial Statements

Note 8. Subrogation Fund

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.

During 2008, the Trust retained the services of a law firm to assist with Medicare issues relating to claims for Matrix Compensation Benefits. On December 22, 2008, the Court approved a Stipulation permitting the Trust to pay the related fees and expenses from the Subrogation Fund.

Note 9. 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 \$102,089 and \$103,407 for the years ended December 31, 2008 and 2007, respectively. On March 20, 2009, the Trustee approved the discontinuance of the Trust's mandatory matching contribution to the Plan effective May 1, 2009. Effective that date, the Trust contributions will be discretionary.

Note 10. 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 11. 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, 2008 and 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

Note 11. 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, 2008 and 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.

Note 12. Common Benefit Fee Refunds and Litigation Expense Reimbursements

During 2008, the Court approved a joint petition for final award of counsel fees and expense reimbursements. The significant provisions of the Order as they relate to the Trust are as follows:

Common Benefit Fees: In accordance with the Settlement Agreement, the total gross Matrix payments due Class Members were reduced by 9.0%. This amount was maintained outside of the Trust in a Common Benefit Attorney escrow pending the award of fees to certain attorneys designated in the Settlement Agreement as Class Counsel or as Common Benefit Attorneys. On April 8, 2008 the Court awarded Common Benefit fees in the aggregate amount of \$163.1 million which represents approximately 6.4 % of the amount that Wyeth was legally obligated to pay to Fund B for the benefit of the Class. The Court directed the Trust to submit a plan for the distribution ("Plan of Distribution") of the remaining 2.6% (approximately \$51.1 million) to Class Members or their individual attorneys. The Plan of Distribution was submitted by the Trust on May 8, 2008 and was approved by the Court on July 21, 2008.

On June 3, 2008, the Court approved a Stipulation filed by Class Counsel and Wyeth regarding the disposition of the balance of the Common Benefit escrow account. In accordance with the Stipulation the escrow agent transferred approximately \$86.7 million to the Trust to be used to pay refunds in accordance with the Plan of Distribution. Any funds remaining after payment of the refunds may be used by the Trust to pay benefits to Class Members, costs of administration and any other payments required of the Trust.

The total gross Matrix payments paid to Class Members after April 8, 2008 are reduced by 6.4%. These amounts are maintained outside of the Trust in the Common Benefit Attorney escrow.

Litigation Expense Reimbursements: In addition to requesting the final reimbursement of expenses and costs, the Joint Fee Applicants also requested that the Trust reimburse the Fund A Escrow Account and the MDL 1203 Fee and Cost Account for costs and expenses incurred for work related to the Settlement Agreement. The Court directed the Trust to transfer \$4.2 million to the Fund A Escrow Account and \$9.2 million to the MDL 1203 Fee and Cost Account. The Court also ordered the Trust to pay \$.8 million to the Joint Fee Applicants for outstanding expenses. These amounts were paid by the Trust in May 2008.

AHP Settlement Trust

Notes to Financial Statements

Note 13. Recently Issued Accounting Standard

In June 2006, the Financial Accounting Standards Board (FASB) issued FASB Interpretation No. 48 (FIN 48), *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement 109*. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB Statement No. 109, *Accounting for Income Taxes*. FIN 48 prescribes a comprehensive model for recognizing, measuring, presenting and disclosing in the financial statements tax positions taken or expected to be taken on a tax return including positions that the organization is exempt from income taxes or not subject to income taxes on unrelated business income. If there are changes in net assets as a result of application of FIN 48 these will be accounted for as an adjustment to the opening balance of net assets. Additional disclosures about the amounts of such liabilities will be required also. The Trust presently recognizes income tax positions based on management's estimate of whether it is reasonably possible that a liability has been incurred for unrecognized income tax benefits by applying FASB Statement No. 5, *Accounting for Contingencies*. The Trust has elected to defer the application of Interpretation 48 in accordance with FASB Staff Position (FSP) FIN 48-3. This FSP defers the effective date of Interpretation 48 for nonpublic enterprises, such as AHP Settlement Trust, included within its scope to the annual financial statements for fiscal years beginning after December 15, 2008. The Trust will be required to adopt FIN 48 in its December 31, 2009 annual financial statements. Management has not assessed the impact of FIN 48 on its financial position and results of operations and has not determined if the adoption of FIN 48 will have a material effect on its financial statements.

CERTIFICATE OF SERVICE

Jules S. Henshell hereby certifies that on March 30, 2009, he caused a true and correct copy of the Report of the Audit of the Settlement Fund for the Year Ended December 31, 2008, 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:

Arnold Levin, Esquire
Michael D. Fishbein, Esquire
Levin, Fishbein, Sedran & Berman
510 Walnut Street, Suite 500
Philadelphia, PA 19106

Orran Brown, Esquire
BrownGreer PLC
115 S. 15th Street
Suite 400
Richmond, VA 23219-4209

Gregory P. Miller, Esquire
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

Stanley M. Chesley, Esquire
Jean M. Geoppinger, Esquire
Waite, Schneider, Bayless, Chesley Co., L.P.A.
1513 Central Trust Tower
One West Fourth Street
Cincinnati, OH 45202

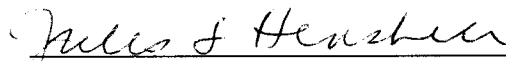
John J. Cummings, III, Esquire
Cummings, Cummings & Dudenhefer
416 Gravier Street
New Orleans, LA 70130

Michael T. Scott, Esquire
Reed Smith LLP
2500 One Liberty Place
Philadelphia, PA 19103-7301

Gene Locks, Esquire
Locks Law Firm
601 Walnut Street, Suite 720 East
Philadelphia, PA 19106

Charles Parker, Esquire
Locke, Liddell & Sapp
3400 JP Morgan Chase Tower
600 Travis
Houston, TX 77002

Sol Weiss, Esquire
Anapol, Schwartz, Weiss, Cohen, Feldman
& Smalley, P.C.
1710 Spruce Street
Philadelphia, PA 19103



Jules S. Henshell
AHP Settlement Trust