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THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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

MDL NO. 1203

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THIS DOCUMENT RELATES TO: )  
ALL ACTIONS )

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

CIVIL ACTION NO. 99-20593

PRETRIAL ORDER NO. 2683

**(Amended Protective Order Concerning Confidential  
Information of the AHP Settlement Trust)**

This matter comes before the Court pursuant to its continuing exclusive jurisdiction to implement the Nationwide Class Action Settlement Agreement with American Home Products Corporation (now known as Wyeth), as amended (the "Settlement Agreement"). Upon the consent of the parties and finding good cause to supersede Pretrial Order No. 2351 by entering this Order, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. **Purposes of this Order.** The Court enters this Order: (i) to implement Section VIII.F.1 of the Settlement Agreement, which requires that any information provided by or regarding a Class Member or otherwise obtained pursuant to the Settlement Agreement shall be

kept confidential and disclosed to appropriate persons only to the extent necessary to process Claims or provide benefits under the Settlement Agreement; and (ii) to permit the successful and orderly implementation of the Settlement Agreement by preserving the confidentiality of proprietary information regarding the internal procedures and policies of the Trust and of the Trustees, the former Interim Claims Administrators, any Claims Administrator(s), and their employees, contractors, and advisors that has been or will be generated in the course of the implementation of the Settlement Agreement. The Court finds that the need to implement Section VIII.F.1 of the Settlement Agreement, the need to protect the privacy of the medical information of Class Members included in their claims, and the need for the Trust to develop its procedures and policies internally, constitutes good cause for the entry of this Order.

2. ***Incorporation of Settlement Agreement Definitions.*** Any capitalized term not specifically defined in this Order shall have the meaning ascribed to such term in the Settlement Agreement.

3. ***Definition of Confidential Information.*** “Confidential Information” as used in this Order means all of the following information in whatever form or medium:

- (a) except as to the Class Member (and the Class Member’s attorney, if any) who provided the information, all information provided by or regarding a Class Member (including Class Members who at any time exercise or attempt to exercise any right of opt-out), referred to in this Order as “Confidential Class Member Information,” and which includes:
  - (1) identifying information regarding a Class Member, such as name, address, telephone number, e-mail address, social security number and other personal identifying information;
  - (2) the claim file regarding a Class Member, including all Claim Forms, the information reflected in such Claim Forms, and all Medical Information relating to the Class Member;
  - (3) all communications between the Interim Claims Administrators and/or the Trust and the Class Member;

- (4) all communications between the Interim Claims Administrators and/or the Trust and any other person or entity regarding a Class Member; and
  - (5) information relating to the processing of the Claim of an individual Class Member, including the benefits determinations relating to the Claim, the Class Member's elections, any benefits paid or provided to the Class Member, and the disposition of the Claim;
- (b) information relating to the internal procedures and policies of the Interim Claims Administrators and/or the Trust, including claims processing policies and methods; employee records; minutes of the meetings of the Interim Claims Administrators, the Trustees, and Trust employees or advisors; information regarding services rendered the Interim Claims Administrators and/or the Trust by any of their employees, independent contractors, and advisors; and the work product and communications generated by any employees, independent contractors, and advisors of the Interim Claims Administrators and/or the Trust; and
  - (c) any other information designated as "Confidential Information" by the Court, the Trustees, or any authorized designees of the Trustees or the Court.

**4. *Information Not Included in the Definition of Confidential Information.***

"Confidential Information" does not include the following information, provided that such information does not contain any Confidential Class Member Information:

- (a) the information to be reported by the Trustees on an annual basis under Section VI.A.10.a.(1), (3), and (4) of the Settlement Agreement;
- (b) the information to be reported by the Trustees on a quarterly basis under Section VI.A.10.b.(1) and(3) and Section VI.A.10.b.(4)(c) through (m) of the Settlement Agreement; and
- (c) statistics related to the number of persons who have submitted Claims or Claim Forms, total amounts paid on in relation to Claims, the number of persons, exercising or attempting to exercise a right of opt-out, either in total or by specific category, and general statistical information regarding Class Members (including opt-outs).

**5. *Definition of Authorized Persons.*** "Authorized Persons" means:

- (a) the Trustees;
- (b) the Claims Administrator(s);
- (c) Wyeth;

- (d) Class Counsel (except as to information regarding any Class Members who at any time exercise or attempt to exercise any right of opt-out, unless such Class Member is the subject of a proceeding relating to the enforcement of PTO 1415 and/or is the subject of an application for a Credit by Wyeth under Section VII.A of the Settlement Agreement);
- (e) an Arbitrator appointed by the Court pursuant to Section VI.C.4.i of the Settlement Agreement and referred an appeal relating to a Claim for Matrix Compensation Benefits, or appointed under Section VI.D.1.g of the Settlement Agreement and referred an appeal relating to a Request for Credit;
- (f) the Special Master appointed by the Court in Pretrial Order 2153 or any other special master appointed by the Court in any subsequent Pretrial Order;
- (g) solely as to information described in Paragraph 3(a)(5) of this Order and regarding Class Members who have not exercised a right of opt-out and who seek Matrix Benefits, persons or entities seeking payment of subrogation claims pursuant to Section VII.D of the Settlement Agreement relating to Class Members specifically identified by the person or entity seeking such payment, for the sole purpose of processing such subrogation claims pursuant to the terms of the Settlement Agreement;
- (h) such other persons designated as Authorized Persons by the Court as necessary to process Claims or provide benefits under the Settlement Agreement, or as otherwise expressly provided in the Settlement Agreement, pursuant to Section VIII.F.1 of the Settlement Agreement;
- (i) a state or federal grand jury or such other person or entity identified as the lawful recipient of documents or information that is the subject of a state or federal grand jury subpoena, a criminal trial subpoena or administrative subpoena served on the Trust or any custodian of the records of the Trust; and
- (j) employees, independent contractors, advisors (including counsel, officers, directors, employees, agents, contractors, experts, accountants and auditors), and the successors and assigns of any of the foregoing.

6. ***General Rule of Nondisclosure of Confidential Information.*** Confidential Information shall be kept strictly confidential and shall not be disclosed except as permitted under this Order or by further order of this Court. Nothing in this Order shall restrict the Trust's maintenance of the Registry and making such Registry available to qualified scientists, physicians, and other researchers in accordance with Section VI.C.3.d of the Settlement Agreement.

7. ***Disclosure to Authorized Persons.*** Confidential Information may be disclosed to Authorized Persons only to the extent reasonably necessary to implement the Settlement Agreement and the Orders of this Court relating to the Settlement Agreement; to carry out the duties and obligations of the Trust and/or the Parties under the Settlement Agreement; to respond to a state or federal grand jury subpoena, a criminal trial subpoena or administrative subpoena that is served on the Trust or any custodian of the records of the Trust; and to seek payment of specifically identified subrogation claims pursuant to Section VII.D of the Settlement Agreement. Such Confidential Information may be used for the foregoing purposes only and cannot be used for any other purpose, including without limitation the solicitation of individual Class Members for purposes of legal representation other than as expressly permitted by Court Approved Procedure No. 3. Before disclosing any Confidential Information to an Authorized Person, the person making such disclosure shall provide a copy of this Order (or of Pretrial Order No. 2351, if such Authorized Person received Confidential Information before the date of this Order) to the Authorized Person. Immediately upon termination of their status as an Authorized Person for any reason, including termination or expiration of employment, contract, or agency, all Authorized Persons who have received any Confidential Information shall return to the person who provided it to them all Confidential Information in their possession, custody, or control, and the restrictions imposed by this Order shall apply permanently to all such persons. All Authorized Persons who receive Confidential Information thereby consent to the personal jurisdiction of this Court for the purposes of any proceeding relating to enforcement of this Order.

8. ***Disclosure of Confidential Class Member Information in Diet Drug Litigation.*** In any proceeding against Wyeth and/or any of the Released Parties arising from or relating to

Diet Drug(s), Wyeth may disclose in pleadings and otherwise such Confidential Information relating to the Class Member(s) involved in that litigation as is reasonably necessary to enforce the provisions of the Settlement Agreement, PTO 1415, and any other Orders of this Court.

9. ***Disclosure of Confidential Class Member Information as Authorized by the Class Member.*** Confidential Class Member Information relating to a particular Class Member may be disclosed as specifically authorized in writing and signed by that Class Member. Authorized disclosures under this paragraph are not subject to any of the restrictions imposed by this Order.

10. ***Preservation of Confidential Information.*** The Trust shall preserve all Confidential Information until further order of this Court, provided, however, that the Trust may dispose of duplicates of materials containing Confidential Information as the Trustees and/or this Court deem necessary and appropriate, in accordance with Paragraph 11 of this Order.

11. ***Disposition of Confidential Information.*** Any person or entity disposing of any materials containing any Confidential Information shall destroy such materials by shredding or such other means that renders the Confidential Information in such materials permanently illegible.

12. ***Violations of this Order.*** Any violation of this Order by any person or entity shall be treated as a violation of an order of this Court and shall be punishable as contempt and may subject the violator to sanctions or other penalties as the Court deems appropriate.

13. ***Freedom of Information Act Exclusion.*** The Trust, including its Trustees, employees, independent contractors, advisors, counsel, officers, directors, agents and experts, are not agencies or authorities of the United States Government, or of any State Government of the United States, or of any other political subdivision of the United States, or of any State. The

Interim Claims Administrators and their employees, independent contractors, advisors, counsel, officers, directors, agents and experts, did not serve as agencies or authorities of the United States Government, or of any State Government of the United States, or of any other political subdivision of the United States, or of any State. No person may disclose Confidential Information pursuant to a request made under any federal, state, or other Freedom of Information Act, or similar statutory or other authority, unless such disclosure is otherwise permitted by this Order.

14. ***Inadvertent Disclosure.*** Inadvertent disclosure of Confidential Information to a person who is not an Authorized Person does not waive the status of that information as Confidential Information. If the disclosing party discovers that it has inadvertently provided Confidential Information to a person who is not an Authorized Person, it shall immediately provide notice of the inadvertent disclosure and request its return. The recipient shall immediately cooperate to return all copies and to take necessary steps to preserve the confidentiality of the information.

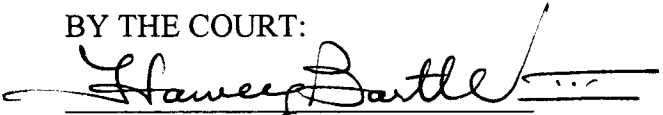
15. ***Access by the Court to Confidential Information and Court-Authorized Disclosure.*** Pursuant to this Court's retained exclusive jurisdiction under Section VIII.B.1 of the Settlement Agreement and Paragraph 11 of PTO 1415, the Trust and/or any Authorized Person shall make Confidential Information available to the Court and to any Special Master duly appointed by the Court as requested by the Court. This Court may also authorize disclosure of Confidential Information upon its own motion or the motion of any interested party, after notice to Class Counsel, the Trust and Wyeth; a hearing if the Court deems it necessary and appropriate; and upon a finding of good cause for such disclosure.

16. *Continuing Jurisdiction.* All claims regarding violations of this Order and any claim seeking or requiring an interpretation of this Order shall be brought exclusively in this Court.

17. *Term.* The restrictions imposed by this Order shall remain in effect until further order of this Court.

DATED: December 12, 2002

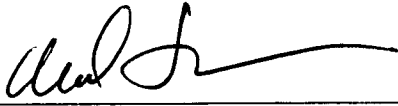
BY THE COURT:

  
Harvey Bartle, III, J.



AGREED:

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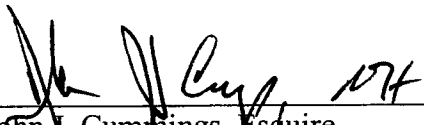
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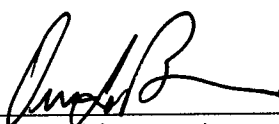
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**WYETH (formerly known as AMERICAN HOME PRODUCTS CORPORATION)**

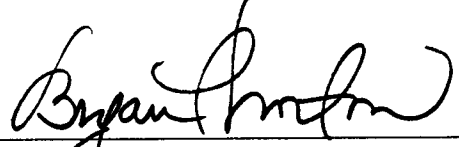
By:   
(signature)

Name: Orran L. Brown  
(printed or typed)

Its: Counsel  
(position)

Date: December 9, 2002

**AHP SETTLEMENT TRUST**

By:   
(signature)

Name: BRYAN L. NORTON  
(printed or typed)

Its: COUNSEL  
(position)

Date: December 10, 2002