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WHITE & CASE

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September 21, 2001

BY HAND

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 104
Washington, DC 20580



*Re: Schering-Plough Corp., Upsher-Smith Laboratories, Inc.,
American Home Products Corporation, Docket No. 9297*

Dear Judge Chappell:

We feel compelled to respond to certain statements contained in Complaint Counsel's Statement of the Case, filed on September 18, 2001. In an apparent attempt to portray Upsher-Smith as overly disputatious, Complaint Counsel asserted that Upsher-Smith had denied that it was a corporation and that it was engaged in interstate commerce, and that these were matters to be decided at trial. Statement of Case at 11-12. Complaint Counsel is mistaken.

In fact, Upsher-Smith has expressly and unequivocally admitted both that it is a corporation and that it is engaged in interstate commerce. Please see the enclosed admissions filed by Upsher-Smith on September 10, 2001. See Admissions Nos. 1 & 2 (admitting Upsher-Smith is a corporation organized under the laws of Minnesota); Admissions Nos. 16-21 (admitting that Upsher-Smith is engaged in interstate commerce).

Finally, we also want to note that Complaint Counsel was incorrect in asserting that Upsher-Smith "began" its production of documents "in the middle of August." Statement of Case at 17. In fact Upsher-Smith began producing documents on June 27, 2001 and made further productions on July 19, 2001 and July 30, 2001. By "the middle of August," Upsher-Smith had produced 111 of the 125 boxes it has produced.

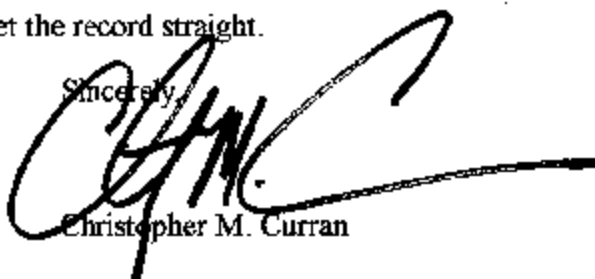
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The Honorable D. Michael Chappell

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Thank you for permitting us to set the record straight.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'CMC', with a long horizontal flourish extending to the right.

Christopher M. Curran

Enclosure

cc: Cathy Hoffman, Esq.
Laura S. Shores, Esq.
Karen G. Bokar, Esq.

Certificate of Service

I, J. Carlos Alarcon, hereby certify that on September 21, 2001, I caused a copy of a letter to The Honorable D. Michael Chappell to be served upon the following persons by courier delivery.

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington DC 20580

Karen G. Bokar
Federal Trade Commission, 3115
601 Pennsylvania Avenue, N.W.
Washington DC 20580

Laura S. Shores
Howrey Simon Arnold & White
1299 Pennsylvania Avenue, N.W.
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555 Twelfth Street, N.W.
Washington DC 20004-2113



J. Carlos Alarcon

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)	
Schering-Plough Corporation, a corporation,)	
Upsher-Smith Laboratories, Inc., a corporation,)	Docket No. 9297
and)	PUBLIC
American Home Products Corporation, a corporation.)	

**UPSHER-SMITH'S OBJECTIONS AND RESPONSES TO COMPLAINT COUNSEL'S
FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Federal Trade Commission Rules of Practice §3.32 Upsher-Smith Laboratories, Inc. submits these objections and responses to Complaint Counsel's First Set of Requests for Admissions to Upsher-Smith. The full text of each request is set forth below in italics, followed by Upsher-Smith's objections and responses. Provision of a response to any request shall not constitute a waiver of any applicable objection, privilege, or other right.

REQUESTS FOR ADMISSIONS

Request No. 1: Upsher-Smith is a legally organized corporation under the laws of the state of Minnesota.

ANSWER: Upsher-Smith admits that it is a corporation organized under the laws of the state of Minnesota.

Request No. 6:

ANSWER:

Request No. 7:

ANSWER:

Request No. 8:

ANSWER:

Request No. 9:

ANSWER:

Request No. 10:

ANSWER:

Request No. 11:

ANSWER:

Request No. 12: Upsher-Smith manufactures pharmaceutical products at its facilities in Minnesota.

ANSWER: Upsher-Smith admits that it manufactures pharmaceutical products at its facilities in Minnesota.

Request No. 13: In 1997, Upsher-Smith manufactured pharmaceutical products at its facilities in Minnesota.

ANSWER: Upsher-Smith admits that in 1997 it manufactured pharmaceutical products at its facilities in Minnesota.

Request No. 14:

ANSWER:

Request No. 15:

ANSWER:

Request No. 16: Active pharmaceutical ingredients for its pharmaceutical products are shipped to Upsher-Smith's facilities in Minnesota by suppliers from facilities of those suppliers located outside Minnesota.

ANSWER: Upsher-Smith objects to this Request as vague and ambiguous as it does not define "active pharmaceutical ingredients." Subject to this objection, Upsher-Smith admits that some ingredients for its pharmaceutical products are received from suppliers' facilities located outside Minnesota.

Request No. 17: In 1997, active pharmaceutical ingredients for its pharmaceutical products were shipped to Upsher-Smith's facilities in Minnesota by suppliers from facilities of those suppliers located outside Minnesota.

ANSWER: Upsher-Smith objects to this Request as vague and ambiguous as it does not define "active pharmaceutical ingredients." Subject to this objection, Upsher-Smith admits that some ingredients for its pharmaceutical products were received from suppliers' facilities located outside Minnesota in 1997.

Request No. 18: Upsher-Smith receives payments transferred across state lines in exchange for its pharmaceutical products.

ANSWER: Upsher-Smith objects to this Request as the expression "payments transferred across state lines in exchange for pharmaceutical products" is vague and ambiguous. Subject to this objection, Upsher-Smith admits that it receives some payments by mail from other states in exchange for pharmaceutical products.

Request No. 19: In 1997, Upsher-Smith received payments transferred across state lines in exchange for its pharmaceutical products.

ANSWER: Upsher-Smith objects to this Request as the phrase "payments transferred across state lines in exchange for pharmaceutical products" is vague and ambiguous. Upsher-Smith admits that in 1997 it received some payments by mail from other states.

Request No. 20: Upsher-Smith authorizes transfer of funds across state lines in exchange for active pharmaceutical ingredients.

ANSWER: Upsher-Smith objects to this Request as the phrases "transfer of funds" and "active pharmaceutical ingredients" are vague and ambiguous. Upsher-Smith admits that it has paid funds across state lines in exchange for ingredients.

Request No. 21: In 1997, Upsher-Smith authorized transfer of funds across state lines in exchange for active pharmaceutical ingredients.

ANSWER: Upsher-Smith objects to this Request as the phrases "transfer of funds" and "active pharmaceutical ingredients" are vague and ambiguous. Upsher-Smith admits that it in 1997 it paid funds across state lines in exchange for ingredients.

Request No. 22:

ANSWER:

Request No. 23:

ANSWER:

Request No. 24:

ANSWER:

Request No. 25:

ANSWER:

Request No. 26:

ANSWER:

Dated September 10, 2001

Respectfully submitted,

WHITE & CASE LLP

By 

Robert D. Paul

J. Mark Gidley

Christopher M. Curran

Gustav P. Chiarello

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Attorneys for Upsher-Smith Laboratories, Inc.

CERTIFICATE OF SERVICE

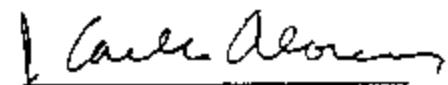
I, J. Carlos Alarcon, hereby certify that on September 10, 2001, I caused a copy of Upsher-Smith's Objections and Responses to Complaint Counsel's First Set of Requests for Admissions to be served upon the following persons by courier delivery.

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
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