

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION



In the Matter of

SCHERING-PLOUGH CORPORATION,  
a corporation,

UPSHER-SMITH LABORATORIES, INC.,  
a corporation,

and

AMERICAN HOME PRODUCTS  
CORPORATION,  
a corporation.

Docket No. 9297

**COMPLAINT COUNSEL'S RESPONSE TO  
RESPONDENTS' EMERGENCY MOTION REGARDING  
PRESENTATION OF AND OBJECTIONS TO TRIAL EXHIBITS**

As per Your Honor's Scheduling Order: "All trial exhibits will be admitted or excluded" on January 17, 2002. This has been part of the Scheduling Order since May 3, 2001, and the January 17 date has been fixed since Your Honor issued the Third Revised Scheduling Order on December 5, 2001. Nonetheless, Schering and Upsher somehow act surprised that we intend to put our exhibits in evidence at the January 17 hearing. Valid objections can be dealt with at that time, but respondents, through their motions, attempt to preempt the time, place, and purpose established by Your Honor for properly dealing with evidentiary issues related to trial exhibits.<sup>1</sup> This is reason enough to deny their motions.

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<sup>1</sup> In this consolidated response, we address: (1) Respondent Schering-Plough Corporation's Emergency Motion and Incorporated Memorandum Regarding Presentation of and Objections to Trial Exhibits (Jan. 11, 2002), and (2) Upsher-Smith's Joinder in Schering's Emergency Motion Regarding Presentation of and Objections to Trial Exhibits (Jan. 14, 2002).

As set forth in detail below, complaint counsel, nevertheless, address the many reasons respondents' motions are totally inadequate as a matter of Commission and federal evidence law and practice, including:

1. The FTC's Rules of Practice provide for the liberal admissibility of reliable evidence, and the documentary evidence we seek to admit is reliable on its face.
2. The FTC's Rules of Practice explicitly permit the admission of documents in evidence without first calling a sponsoring witness, and doing so is a well-established Commission practice.
3. Any evidentiary objections respondents may have should be raised during "document day" in accordance with Your Honor's Scheduling Order.
4. Respondents will suffer no unfair prejudice by summarily admitting complaint counsel's exhibits in evidence at "document day."

\* \* \* \* \*

1. **The FTC's Rules of Practice Provide for the Liberal Admissibility of Reliable Evidence, and the Documentary Evidence We Seek to Admit Is Reliable on its Face**

Once again we remind respondents' counsel that administrative hearings before the Federal Trade Commission are not governed, in the first instance, by the Federal Rules of Evidence. As the Supreme Court decided long ago in *FTC v. Cement Institute*:

administrative agencies like the Federal Trade Commission have never been restricted by the rigid rules of evidence. And of course rules which bar certain types of evidence in criminal or quasi-criminal cases are not controlling in proceedings like this, where the effect of the Commission's order is not to punish or to fasten liability on respondents for past conduct but to ban specific practices for the future in accordance with the general mandate of Congress.<sup>2</sup>

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<sup>2</sup> 333 U.S. 683, 705-06 (1948) (citations omitted).

Similarly, the authors of the evidence treatise cited by Schering in its motion recognize that the federal rules of evidence "are absurdly inappropriate to any tribunal or proceeding where there is no jury."<sup>3</sup> The well-known Wigmore evidence treatise goes on to observe that "any attempt to apply strictly the jury-trial rules of evidence in an administrative tribunal acting without a jury is a historical anomaly, predestined to probable futility and failure."<sup>4</sup>

Under the FTC's Rules of Practice, "relevant, material, and reliable evidence *shall* be admitted."<sup>5</sup> As the Commission has consistently ruled, "all relevant and material evidence – whether hearsay or not – is admissible, as long as it is reliable."<sup>6</sup> The Commission has further observed: "Indeed one of the purposes in establishing [tribunals such as the FTC] was to devise a way whereby the exclusionary rules of evidence would be eliminated as a bar to common sense resolution of certain classes of controverted cases."<sup>7</sup> This is consistent with the practice throughout federal administrative agencies, and, as explained by a leading administrative law treatise in its discussion of the rules of evidence in administrative proceedings:

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<sup>3</sup> McCormack, Evidence in 5 Encyclopedia of the Social Sciences 637, 645 (E. Seligman ed. 1931).

<sup>4</sup> J. Wigmore, Evidence § 4b (3d ed. 1940).

<sup>5</sup> 16 C.F.R. § 3.43(b) (emphasis added).

<sup>6</sup> *American Home Prods. Corp.*, 98 F.T.C. 136 at n.9 (1981). See also *Kellogg Co.*, 99 F.T.C. 8, 31-32 (1982) ("Section 3.43(b) of the Commission's Rules of Practice provides for the admission of relevant, material, and reliable evidence. It does not exclude hearsay evidence, and hearsay evidence may be received.") (citations omitted); *Philadelphia Carpet Co.*, 64 F.T.C. 762, 773 (1964) ("[I]t is long settled that hearsay evidence is not to be out of hand rejected or excluded in administrative tribunals.").

<sup>7</sup> *Philadelphia Carpet Co.*, 64 F.T.C. at 773.

There are three reasons why it makes little sense to take the risk of erroneous exclusion of reliable evidence through application of highly technical exclusionary rules in the context of agency adjudications. First, the cost of such errors is as great in the agency adjudication context as it is in the judicial context: If the ALJ erroneously excludes reliable evidence, the agency must remand for further proceedings or decide the case on the basis of an incomplete record. Second, the risk of error of exclusion is greater in the agency adjudication context than in the context of a jury trial. Third, there are good reasons to take this risk in the jury trial context that do not exist in the case of agency adjudications.<sup>8</sup>

**2. The FTC's Rules of Practice Explicitly Permit the Admission of Documents in Evidence Without First Calling a Sponsoring Witness, and Doing So Is a Well-Established Commission Practice**

Well-established Commission practice holds that documents obtained from a respondent's files are presumed reliable, and FTC Rule of Practice §3.43(b)(2) expressly provides that documents produced by a respondent are presumed to be authentic and in the nature of business records.<sup>9</sup> This rule states:

As respondents are in the best position to determine the nature of documents generated by such respondents and which come from their own files, the burden of proof is on the respondent to introduce evidence to rebut a presumption that such documents are authentic and kept in the regular course of business.<sup>10</sup>

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<sup>8</sup> Kenneth C. Davis and Richard J. Pierce, Jr., II *Administrative Law Treatise* (3d ed. 1994) § 10.3 at 125-26.

<sup>9</sup> Similarly, the Commission in *American Medical Association* provided for the admission of documents from co-conspirators as reliable business records. *American Medical Association*, 94 F.T.C. 701, 964-66 (1979); see also *Kellogg Co.*, 99 F.T.C. 8, 32 & n.9 (1982) (admitting documents from the files of certain respondents for use against other respondents, even when not in furtherance of the conspiracy).

<sup>10</sup> FTC Rules of Practice for Adjudicatory Proceedings, 16 C.F.R. § 3.43(b) (2001).

This well-established practice was explicitly set forth in the Commission's decision in *Lenox* over thirty years ago, and has been consistently applied by Administrative Law Judges ever since.<sup>11</sup> *Lenox* also creates a presumption that a respondent's documents are reliable and therefore admissible directly in evidence.<sup>12</sup> The Commission recently decided to codify the *Lenox* doctrine in the Commission's Rules of Practice with the hope of preventing respondent's counsel from "wast[ing] time and energy" by re-litigating this settled principle of Commission practice.<sup>13</sup> Apparently that hasn't worked here.<sup>14</sup>

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<sup>11</sup> *Lenox, Inc.*, 73 F.T.C. 578, 604 (1968) *aff'd as modified*, 417 F.2d 126 (2d Cir. 1969); *accord Automotive Breakthrough Sciences, Inc.*, 1996 FTC LEXIS 479 at \*3 (admitting "documents in lieu of live testimony" based on *Lenox* and other cases); *R.R. Donnelley & Sons Co.*, 1993 FTC LEXIS 1 at \*2 (citing *Lenox* for the presumption that "all documents produced by Donnelley are authentic."); *R.R. Donnelley & Sons Co.*, 1991 LEXIS 265 at \*2 (citing *Lenox* for the proposition that if respondent "claims any copies are not authentic, it will have the burden of proof with respect to that claim."); *Chain Pharm. Ass'n*, 1990 FTC LEXIS 422 at \*1-\*2 (citing *Lenox* for the presumption that respondent's pre-complaint documents are admissible without a witness).

<sup>12</sup> *Lenox*, 73 F.T.C. at 604 ("Clearly documents coming from a respondent's files can be regarded as reasonably reliable absent some countervailing evidence demonstrating their unreliability.").

<sup>13</sup> Federal Trade Commission Rules of Practice Amendments, 66 Fed. Reg. 17,622 (2001) ("In *Lenox, Inc.*, 73 F.T.C. 578, 603-04 (1968), the Commission articulated its position that, because respondents are in the best position to determine the authenticity of documents kept in their own files, respondents bear the burden of producing evidence to rebut a presumption that documents produced from their files are authentic. . . . This position has been repeated in subsequent cases, and applied to documents produced by any corporation (including third parties). Nevertheless, in some proceedings counsel continue to raise objections to the authenticity of their own documents (without producing affirmative evidence calling authenticity into question) until the ALJ is forced to make a ruling enforcing the *Lenox* presumption. This practice wastes time and energy. Expressly writing the *Lenox* presumption into the rules might deter some of these objections.").

<sup>14</sup> Respondents' failure to even mention, much less discuss or distinguish, the *Lenox* doctrine in their motions demonstrates their disregard for Commission rules and practice.

The *Lenox* case and its progeny have resulted in a Commission practice known as "document day," where both sides present their exhibits in advance of trial, and they are then admitted in evidence *en masse*. Far from being "unorthodox," as asserted by Schering in its motion, ALJs at the FTC have for years used document day to admit large numbers of documents directly in evidence. For example, ALJ Needelman, in a case cited in Schering's motion, explained that "document day" is "for ruling on objections to exhibits to be offered without a witness."<sup>15</sup> Similarly, in the hearing in *Toys "R" Us*, the respondent's counsel made the same argument as Schering and Upsher here, that documents should "come in through witnesses." ALJ Timony rejected this position and admitted 1,747 documents in one fell swoop, stating: "Usually we have – the dumping day is the first day. We do have that tradition."<sup>16</sup> In other recent administrative hearings, other FTC ALJs also have followed this efficient and traditional practice, admitting large numbers of respondent's documents, as well as those of third parties, without time-consuming and unnecessary witness testimony.<sup>17</sup>

Federal courts also recognize that the Federal Trade Commission may properly consider documentary evidence without a trial court's concerns of hearsay. The Second Circuit Court of Appeals in *Phelps Dodge Refining Corp. v. FTC*, with a panel including Judge Learned Hand, affirmed the Commission's decision where the only item of proof connecting two parties to a

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<sup>15</sup> *Chain Pharm. Ass'n*, 1990 FTC LEXIS 271 at \*5 (1990).

<sup>16</sup> *Toys "R" Us, Inc.*, Dkt. No. 9278, Prehearing Conference (Feb. 28, 1997) at Tr. 31 (Attachment A).

<sup>17</sup> See *Summit Tech. & Visx*, Dkt. No. 9286, Trial Record at Tr. 22 (Dec. 14, 1998) (Levin, ALJ) (admitting complaint counsel's exhibits numbers 9 through 297) (Attachment B); *California Dental Association*, Matter No. 9259, Trial Record at Tr. 157-93 (Feb. 7, 1995) (Parker, ALJ) (admitting 1,658 of complaint counsel's exhibits) (Attachment C).

price-fixing scheme was a single memorandum. The court held that the Commission had properly admitted the document in evidence and noted that, although hearsay, "it is persuasive hearsay, and the Commission is not bound to follow the strict rules of evidence which prevail in courts of law."<sup>18</sup>

Respondents argue that the documents must come in through witnesses in order to "put them in context" and provide for the "right of confrontation and cross-examination."<sup>19</sup> Since the vast majority of the documents we seek to admit come from respondents' own files, putting them in context should not be a problem for them. Moreover, do respondents seriously intend to confront and cross-examine their own executives and employees who wrote the vast majority of these documents? Lastly, respondents' arguments give no regard to established Commission practice. As explained by ALJ Hyun in *Bristol-Meyers* (a case cited in Schering's motion), the "usual and established practice" to responding to documents admitted directly in evidence is to "attack their reliability and probative weight through the party's own witnesses, not to confront and cross-examine the hearsay declarants themselves."<sup>20</sup> ALJ Parker also recognized this as the appropriate policy when he stated that he "seldom sustain[s] hearsay objections" to a respondent's

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<sup>18</sup> 139 F.2d 393, 397 (2d Cir. 1943). Similarly, former ALJ Parker recognized the different nature of administrative practice when he said "the Commission couldn't function if we had to worry about hearsay objections." *California Dental Association*, Dkt. No. 9259, Trial Record at Tr. 154 (Feb. 7, 1995) (Attachment C).

<sup>19</sup> Schering Motion at 5 & 6.

<sup>20</sup> *Bristol-Meyers Co.*, 1978 FTC LEXIS 417 at \*13-\*14 (1978).

documents because they "are business records, and as far as I am concerned, they are adequate" for direct admission into the evidentiary record.<sup>21</sup>

Schering cites ALJ Hyun's order in *Bristol-Meyers* for the proposition that "the Commission has explicitly recognized that this 'right of confrontation and cross-examination applies to adverse documentary evidence.'"<sup>22</sup> Schering, however, conspicuously fails to mention that ALJ Hyun *denied* respondent's motion to cross-examine the authors of the document in question and admitted the document directly in evidence.<sup>23</sup> ALJ Hyun noted that, under the Administrative Procedure Act, the right to cross-examination exists only when a party can demonstrate that it is "required for full and true disclosure of the facts."<sup>24</sup> In this case, "to insist on . . . confrontation and cross-examination of [the authors] at trial will unnecessarily and unduly prolong the proceeding and is unjustified."<sup>25</sup>

Finally, if respondents' true motive for their emergency motions is to permit witnesses to put documents in context, they would have allowed the witnesses to do so during discovery. At the depositions and investigational hearings, respondents' counsel repeatedly made the objection that a document "speaks for itself," because, as noted by Upsher's counsel, the contents of a

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<sup>21</sup> *California Dental Association*, Dkt. No. 9259, Trial Record at Tr. 154 (Feb. 7, 1995) (Attachment C).

<sup>22</sup> Schering Motion at 6.

<sup>23</sup> *Bristol-Meyers Co.*, 1978 FTC LEXIS 417 at \*14-\*17.

<sup>24</sup> *Id.* at \*16 (citation omitted).

<sup>25</sup> *Id.* at \*14.



business document are often “a statement of fact” and not in need of supplemental explanation.<sup>26</sup>

If a document speaks for itself during discovery, there is no reason to believe it will fall mute during trial.

**3. Any Evidentiary Objections Respondents May Have Should Be Raised during Document Day in Accordance with Your Honor’s Scheduling Order**

Respondents have articulated no plausible reason why they cannot formulate adequate objections at the prehearing conference. (Indeed, they have exchanged with complaint counsel numerous multi-page letters making precisely such objections to our exhibits, including relevance, materiality, authenticity, and hearsay.) Nonetheless, respondents now argue that they will not be in a proper position to make objections to “relevance and prejudice” unless complaint counsel are ordered to reveal our trial strategy and explain how we plan to use the documents.<sup>27</sup>

First, we are under no obligation to provide respondents with our trial strategy.

Second, if respondents are unable to determine why complaint counsel believe that a particular document is relevant, it should object at document day.

**4. Respondents Will Suffer No Unfair Prejudice by Summarily Admitting Complaint Counsel’s Exhibits in Evidence at “Document Day”**

For all the reasons stated above, respondents cannot seriously claim unfair prejudice should Your Honor summarily admit complaint counsel’s exhibits in evidence at document day. On the other hand, complaint counsel will suffer extreme prejudice should Your Honor deny us the use of this reliable, relevant, and material evidence at trial. More importantly, Your Honor,

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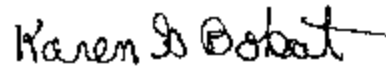
<sup>26</sup> Troup Dep. at 56 (Attachment D). *See, also*, Poorvin Dep. at 109, 131, 137, 149, 195, and 238 (Attachment E).

<sup>27</sup> Schering Motion at 5.

and possibly the Commission, will be denied the opportunity to assess and weigh reliable, relevant, and material evidence necessary to resolving issues in dispute in this matter.

For these reasons, complaint counsel respectfully requests that Your Honor deny: (1) Respondent Schering-Plough Corporation's Emergency Motion and Incorporated Memorandum Regarding Presentation of and Objections to Trial Exhibits, and (2) Upsher-Smith's Joinder in Schering's Emergency Motion Regarding Presentation of and Objections to Trial Exhibits.

Respectfully Submitted,



Karen Bokat  
Karen Bokat  
Bradley S. Albert  
David D. Dudley

Counsel Supporting the Complaint  
Bureau of Competition  
Federal Trade Commission  
Washington, D.C. 20580

Dated: January 16, 2002

**CERTIFICATE OF SERVICE**

I, David Dudley, hereby certify that on January 16, 2002:

I caused two copies of Complaint Counsel's Memorandum in Opposition to Respondents' Emergency Motions Regarding Presentation of and Objections to Trial Exhibits to be served upon the following person by hand delivery-

Hon. D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
Room 104  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

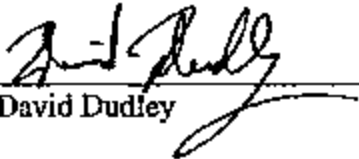
I caused one original and one copy of Complaint Counsel's Memorandum in Opposition to Respondents' Emergency Motions Regarding Presentation of and Objections to Trial Exhibits to be served by hand delivery and one copy to be served by electronic mail upon the following person-

Office of the Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

I caused copies of Complaint Counsel's Memorandum in Opposition to Respondents' Emergency Motions Regarding Presentation of and Objections to Trial Exhibits to be served upon the following persons by electronic mail and Federal Express-

Laura S. Shores, Esq.  
Howrey Simon Arnold & White  
1299 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Christopher M. Curran, Esq.  
White & Case LLP  
601 13th Street, N.W.  
Washington, D.C. 20005

  
David Dudley

# ATTACHMENT A

**OFFICIAL TRANSCRIPT PROCEEDING**

**FEDERAL TRADE COMMISSION**

**MATTER NO. D09278**

**TITLE TOYS "R" US, INC.**

**PLACE FEDERAL TRADE COMMISSION  
ROOM 532  
6TH STREET & PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC**

**DATE FEBRUARY 28, 1997**

**PAGES 1 THROUGH 51**

**PREHEARING CONFERENCE**

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**FOR THE RECORD, INC.  
603 POST OFFICE ROAD, SUITE 309  
WALDORF, MARYLAND 20602  
(301)870-8052**

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1 before Tuesday and hopefully reach an agreement on that.

2 One of the questions that I think was raised by  
3 Rick's presentation earlier this morning is whether we are  
4 going to be introducing exhibits in some wholesale way or  
5 whether they are going to come in through witnesses.

6 Ordinarily, one doesn't have a kind of wholesale  
7 dumping of boxes of exhibits into evidence. They come in as  
8 a witness is on the stand, and the witness testifies about  
9 whichever portion either side wants to bring out.

10 If it is envisioned here -- and we hope it isn't --  
11 but if it is envisioned that there is going to be kind of a  
12 wholesale dumping of exhibits before Your Honor and  
13 introducing them into evidence, would Your Honor prefer that  
14 we do the same, we put in our exhibits at the same time, or  
15 would Your Honor prefer that we wait until the conclusion of  
16 complaint counsel's case and the beginning of ours?

17 Our preference would be to do it at the same time  
18 they do so --

19 JUDGE TIMONY: Usually we have -- the dumping day is  
20 the first day. We do have that tradition. I don't remember  
21 the respondent putting in theirs, though.

22 MR. DAGEN: I think the cases I've been involved in  
23 that's been the case, but that's acceptable to us.

24 JUDGE TIMONY: If you have no objection to it, that's  
25 what we will do.

# ATTACHMENT B

# ORIGINAL

## OFFICIAL TRANSCRIPT PROCEEDING

### FEDERAL TRADE COMMISSION

**MATTER NO.** D09286

**TITLE** SUMMIT TECHNOLOGY & VISX

**PLACE** FEDERAL TRADE COMMISSION  
6TH & PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC

**DATE** DECEMBER 14, 1998

**PAGES** 1 THROUGH 253

TRIAL VOLUME 1

PUBLIC RECORD

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FOR THE RECORD, INC.  
603 POST OFFICE ROAD, SUITE 309  
WALDORF, MARYLAND 20602  
(301)870-8025

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1 of those. I think they probably are.

2 If I can identify those exhibits that are on  
3 this list, they are Exhibit 298, Exhibit 309, 310, 311,  
4 312, 313, 314, 315, 330. 337 and 338, we do object to,  
5 they are excerpts of deposition transcripts, to which I  
6 understood we weren't going to be addressing today based  
7 on our discussion on Wednesday. 340 and 343.

8 JUDGE LEVIN: All right. Now, some you're  
9 objecting to because they're duplicative and some you're  
10 objecting to for other reasons?

11 MR. FLANAGAN: Some I'm objecting to because  
12 they're duplicative.

13 JUDGE LEVIN: What's the first -- the first  
14 document that you object to?

15 MR. FLANAGAN: 298, Your Honor.

16 JUDGE LEVIN: All right. Complaint counsel's  
17 Exhibits CX-9 through CX-297 as identified in the  
18 document entitled Complaint Counsel's Exhibits Offered  
19 Without Objection are hereby admitted into the hearing  
20 record.

21 (Complainant's Exhibit Numbers 9 through 297  
22 were admitted into evidence.)

23 JUDGE LEVIN: All right, what's the problem with  
24 298?

25 MR. FLANAGAN: Well, the -- we have a

# ATTACHMENT C

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**ADMINISTRATIVE LAW JUDGE**

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DKT/CASE NO.: 9259  
TITLE: CALIFORNIA DENTAL ASSOCIATION  
PLACE: San Francisco, California  
DATE: February 7, 1995  
PAGES: 1 through 238

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**HERITAGE REPORTING CORPORATION**

*Official Reporters*  
1220 L Street, NW, Suite 600  
Washington, D.C.  
(202) 628-4888

1 MR. PHILLIPS: So we object to that document as  
2 being hearsay.

3 JUDGE PARKER: And all documents like that?

4 MR. PHILLIPS: Yes, Your Honor.

5 JUDGE PARKER: I seldom sustain hearsay objections  
6 in our cases. These are business records, and as far as I  
7 am concerned they are adequate.

8 MR. MEIER: Your Honor, if I might also add to  
9 that.

10 We believe that all component documents should be  
11 admitted, not only because they are not hearsay under the  
12 co-conspirator rule; all of the components are unnamed co-  
13 conspirators as outlined in our original complaint. And we  
14 believe that under Federal Rule of Evidence 801(d)(2)(e) and  
15 the way that's been interpreted by the Commission,  
16 specifically referring to the AMA's case at 94 FTC 701 at  
17 957, documents of the AMA's unnamed constituent and  
18 components societies were admitted under the co-conspirator  
19 rule as non-hearsay, as evidence to be --

20 JUDGE PARKER: That's a good reason, but my basic  
21 reason is that the Commission couldn't function if we had to  
22 worry about hearsay objections.

23 If there is some document which you consider to be  
24 very dangerous for you and you want to make an objection on  
25 hearsay grounds, you can. But you are just making a general

1 to the reporter tomorrow, okay?

2 MR. PHILLIPS: I am just trying to make it very  
3 clear that we are protecting the record, Your Honor.

4 JUDGE PARKER: You are offering these exhibit  
5 today; is that correct?

6 MR. MEIER: Excuse me, Your Honor?

7 JUDGE PARKER: You're offering these exhibits in  
8 evidence?

9 MR. MEIER: Yes, Your Honor.

10 JUDGE PARKER: All right.

11 MR. SPIKAS: If the Court please, could we have  
12 more than just to tomorrow?

13 Your Honor has already ruled, so I don't think  
14 anyone will be prejudiced if we have more than that. We  
15 don't have our normal secretarial service out here.

16 JUDGE PARKER: All right.

17 MR. SPIKAS: It will take us probably until the  
18 end of the week --

19 JUDGE PARKER: Sure.

20 MR. SPIKAS: -- to get this done.

21 JUDGE PARKER: That's fine.

22 MR. SPIKAS: Thank you, Your Honor.

23 JUDGE PARKER: All right. The objection to  
24 Complaint counsel's exhibits are overruled, and the  
25 following Commission exhibits are received in evidence.

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1 A and B, 2, 3 A through C, 4  
5 A through G, 5, 6 A through D,  
6 7 A through E, and were  
7 received in evidence.)

8 (Continued on next page.)

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22 //  
23 //  
24 //  
25 //

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 8 A and B, 9 A through G, 10,  
5 11 A and B, 12, 13, 14 A  
6 through C, 15 A through D, 16  
7 A through G, 17 A through E,  
8 18 A and B, 19, 20 A through  
9 C, 21, 22 A through D, 23 A  
10 through D, 24 A and B, 25 A  
11 through D, 26, 27 A through F,  
12 28 A through D, 29 A through  
13 F, 30, 31 A through E, 32 A  
14 and B, 33, 34, 35, 36, 37, 38  
15 A through F, 39, 40, 41 A  
16 through D, 42, 43 A through D,  
17 44 A through D, 45, 46, 47 A  
18 and B, 48 A through H, 49 A  
19 through D, 50 A through C, 51  
20 A through C, 52 A through C,  
21 53, 54, 55 A through F, and  
22 were received in evidence.)  
23 //  
24 //  
25 //

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 56 A and B, 57 A through E,  
5 58, 59 A through E, 60 A and  
6 B, 61 A through D, 62 A  
7 through D, 63 A and B, 64 A  
8 and B, 65 A and B, 66 A and B,  
9 67 A and B, 68, 69, 70 A  
10 through C, 71, 72, 73 A and B,  
11 74, 75 A through C, 76 A and  
12 B, 77 A and B, 78, 79 A and B,  
13 80, 81 A through F, 82 A and  
14 B, 83, 84, 85 A and B, 86 A  
15 through C, 87, 88 A and B, 89  
16 A and B, 90 A and B, 91, 92 A  
17 through E, 93, 94 A and B, 95,  
18 96, 87, 98 A through B, 99,  
19 100, 101, 102 A through C, 103  
20 A through C, 104 A through H,  
21 105 A through E, 106 A through  
22 D, 107, A and B, 108 A through  
23 D, 109 A through G, 110, 111 A  
24 through E, and were received  
25 in evidence.)



1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 112 A through C, 113 A and B,  
5 114 A through C, 115 A through  
6 C, 116 A and B, 117 A and B,  
7 118, 119 A through C, 120 A  
8 through F, 121 A and B, 122,  
9 123 A and B, 124 A and B, 125  
10 A through C, 126 A through F,  
11 127 A through D, 128 A through  
12 D, 129 A through C, 130, 131,  
13 132 A and B, 133, 134 A and B,  
14 135 A through D, 136 A through  
15 D, 137 A through G, 138 A and  
16 B, 139, 140 A and B, 141 A and  
17 B, 142 A and B, 143, 144 A  
18 through D, 145 A through C,  
19 146 A and B, 147, 148, 149 A  
20 and B, 150 A and B, 151 A  
21 through D, 152 A and B, 153 A  
22 and B, 154, 155, 156 A and B,  
23 157 A and B, 158, 159, 160,  
24 161 A through D, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as 162 A through D, 163 A and  
4 B, 164 A through C, 165 A  
5 through D, 166, 167, 168 A  
6 through E, 169 A through E,  
7 170, 171 A and B, 172, 173 A  
8 and B, 174 A and B, 175 A  
9 through C, 176, 177 A and B,  
10 178 A through D, 179 A and B,  
11 180 A through C, 181, 182,  
12 183, 184 A through D, 185 A  
13 through C, 186, 187, 188 A  
14 through D, 189 A through J,  
15 190 A through E, 191 A through  
16 F, 192, 193, 194 A and B, 195,  
17 196 A and B, 197, 198 A  
18 through C, 199 A and B, 200,  
19 201, 202 A through F, 203 A  
20 through D, 204 A through C,  
21 205 A and B, 206 A through D,  
22 207 A and B, 208, 290, 210 A  
23 through C, 211, 212, 213, 214  
24 A and B, and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 215, 216 A and B, 217, 218,  
5 219, 220 A and B, 221 A and B,  
6 222, 223 A through I, 224 A  
7 through H, 225 A through H,  
8 226 A and B, 227 A through C,  
9 228, 229 A and B, 230, 231,  
10 232, 233, 234, 235 A and B,  
11 236 A through, 237 A and B,  
12 238 A through C, 239, 240,  
13 241, 242 A through C, 243,  
14 244, 245 A through C, 246 A  
15 and B, 247 A and B, 248 A  
16 through C, 249 A through D,  
17 250 A and B, 251 A and B, 252  
18 A and B, 253, 254 A through D,  
19 255, 256 A through F, 257 A  
20 through D, 258 A through G,  
21 259 A and B, 260 A and B, 261  
22 A and B, 262 A and B, 263, 264  
23 A and B, 265, 266, 267, 268 A  
24 through D, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 269, 270, 271 A through J, 272  
5 A and B, 273, 274 A through F,  
6 275 A through C, 276, 277,  
7 278, 279 A through E, 280 A  
8 through D, 282 A through D,  
9 283 A through D, 284 A through  
10 D, 285, 286, 287, 288, 289,  
11 290, 291, 292, 293, 294, 295,  
12 296, 297 A through F, 298 A  
13 through H, 299, 300 A through  
14 E, 301 A through I, 302 A  
15 through E, 303 A through D,  
16 304 A through D, 305 A through  
17 H, 306, A through F, 307 A  
18 through D, 308, 309 A through  
19 E, 310 A through C, 311, 312 A  
20 through E, 313 A and B, 314 A  
21 and B, 315 A and B, 316 A  
22 through D, 317 A and B, 318 A  
23 through E, 319, 320 A through  
24 E, F and H, I, 321, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 322 A through C, 323 A through  
5 C, 324, 325, 326 A and B, 327  
6 A and B, 328 A and B, 329 A  
7 and B, 330 A through F, 331,  
8 332 A through D, 333 A through  
9 H, 334, 335 A and B, 336 A  
10 through G, 337 A and B, 338 A  
11 through C, 339 A and B, 340 A  
12 and B, 341 A and B, 342, 343,  
13 344, 345, 346 A through E, 347  
14 A through D, 348 A through C,  
15 349 A through C, 350, 351 A  
16 and B, 352, 353, 354 A through  
17 C, 355, 356, 357, 358 359 A  
18 through E, 360 A through E,  
19 361 A and B, 362 A through F,  
20 363, 364 A through F, 365, 366  
21 A through C, 367 A through C,  
22 368 A through D, 369, 370 A,  
23 B, C, D, 371 A through E, 372  
24 A through C, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit No.  
4 373 A through G, 374 A and B,  
5 375 A through C, 376, 377 A  
6 through C, 378 A through C,  
7 379, 380 A and B, 381 A  
8 through D, 382 A through C,  
9 383, 384 A through C, 385,  
10 386, 387 A through F, 388 A  
11 through D, 389 A through G,  
12 390, 391 A through E, 392 A  
13 and B, 393, 394 A through D,  
14 395, 369 A and B, 397, 398,  
15 399 A and B, 400, 401, 402 A  
16 and B, 403, 404, 405, 406 A  
17 through D, 407 A through C,  
18 408 A through H, 409 A and B,  
19 410, 411 A and B, 412, 413 A  
20 through E, 414 A through D,  
21 415 A through I, 416, 471 A  
22 through F, 418 A and B, 419,  
23 420, 421, 422, 423, 424, 425 A  
24 through C, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 426 A through M, 427 A and B,  
5 428 A through F, 429, 430 A  
6 through E, 431 A and B, 432,  
7 433 A through E, 434 A through  
8 C, 435 A through C, 436 A  
9 through E, 437 A and B, 438,  
10 439, 440 A through H, 441,  
11 442, 443, 444 A through D, 445  
12 A and B, 446 A and B, 447 A  
13 and B, 448, 449 A and B, 450 A  
14 through C, 451 A and B, 452 A  
15 and B, 453, 454 A and B, 455,  
16 456 A through D, 457, 458, 459  
17 A through C, 460, 461 A  
18 through E, 462 A through C,  
19 463 A through D, 464 A through  
20 C, 465 A and B, 466, 467 A  
21 through C, 468 A through E,  
22 469 A through C, 470 A and B,  
23 471 A and B, 472, 473, 474 A  
24 through E, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 475 A through F, 476, 477, 478  
5 A through C, 479 A and B, 480,  
6 481 A through E, 482 A through  
7 D, 483, 484 A through E, 485,  
8 486 A through C, 487 A and B,  
9 488 A and B, 489, 490, 491 A  
10 and B, 492, 493 A through D,  
11 494, 495 A and B, 496, 497 A  
12 through G, 498, 499 A through  
13 C, 500 A and B, 501 A and B,  
14 501 A through F, 502 A and B,  
15 503 A through E, 504 A through  
16 C, 505 A and B, 506 A and B,  
17 507 A through C, 509, 510 A  
18 through G, 511, 512, 513, 514  
19 A through D, 515 A and B, 516  
20 A through F, 517, 518, 519,  
21 520, 521, 522, 523 A through  
22 D, 524 A through D, 525 A and  
23 B, 526 A and B, 527 A through  
24 D, 528 A through C, and were  
25 received in evidence.)



1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 519, 530, 531, 532 A and B,  
5 533, 534 A through F, 535 A  
6 and B, 536, 537, 538 A through  
7 C, 539, 540 A and B, 541 A and  
8 B, 542, 543 A through C, 544 A  
9 through E, 545 A through C,  
10 546 A and B, 547, 548 A and B,  
11 549, 550 A and B, 551, 552,  
12 553, 554 A and B, 555, 556,  
13 557 A through E, 558 A through  
14 E, 559, 560, 561 A and B, 562,  
15 563 A and B, 564 A through D,  
16 565, 566, 567 A through D,  
17 568, 569 A and B, 570, 571 A  
18 through C, 572, 573, 574, 575  
19 A and B, 576 A through E, 577  
20 A through E, 578 A and B, 579  
21 A through C, 580, 581 A  
22 through C, 582, 583, 584 A  
23 through D, 585 A through K,  
24 586 A through E, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 587 A and B, 588 A and B, 589,  
5 590 A and B, 591 A and B, 592,  
6 593, 594 A through E, 595, 596  
7 A through K, 597 A through H,  
8 598 A and B, 599, 600, 601,  
9 602 A through J, 603 A through  
10 G, 604, 605 A and B, 606, 607,  
11 608 A and B, 609 A through C,  
12 610 A and B, 611, 612 A and B,  
13 613 A and B, 614, 615, 616,  
14 617, 618, 619 A and B, 620,  
15 621, 622, 623 A through H, 624  
16 A through C, 625 A through G,  
17 626 A and B, 627, 628 A  
18 through C, 629, 630, 631 A  
19 through C, 632, 633, 634, 635,  
20 636 A and B, 637, 638, 639,  
21 640, 641, 642, 643, 644, 645 A  
22 and B, 649 A through F, 647 A  
23 and B, 648 A through D, 649 A  
24 through I, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 650, 651, 652, 653, 654 A  
5 through I, 655, 656, 657 A  
6 through M, 658 A through G,  
7 659 A and B, 660, 661 A  
8 through D, 662 A through D,  
9 663, 664 A and B, 665, 666,  
10 667, 668 A through E, 669 A  
11 through C, 670 A through H,  
12 671 A and B, 672 A through C,  
13 673 A through D, 674 A through  
14 D, 675 A and B, 676, 677 A and  
15 B, 678, 679 A through E, 670,  
16 681, 682 A through I, 683, 684  
17 A through C, 685, 686 A  
18 through G, 687, 688 A through  
19 D, 689, 690, 691, 629 A  
20 through D, 693 A through D,  
21 694 A through C, 695 A through  
22 G, 696 A through C, 697 A  
23 through C, 698, 699, 700, 701,  
24 702 A through C, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 703, 704 A through F, 705 A  
5 through G, 706, 707, 708 A  
6 through G, 709, 710, 711 A and  
7 B, 712, 713, 714 A and B, 715  
8 A and B, 716, 717 A through C,  
9 718 A through F, 719 A and B,  
10 720 A through E, 721, 722 A  
11 through H, 723 A through F,  
12 724 A through Z173, 725 A  
13 through Z31, 726 A through D,  
14 727, 728 A through D, 729, 730  
15 A through D, 731 A through C,  
16 732 A and B, 733 A through K,  
17 734 A and B, 735 A and B, 736,  
18 737 A and B, 738, 739, 740 A  
19 through F, 741 A through D,  
20 742 A and B, 743, 744, 745 A  
21 through G, 747 A through E,  
22 747, 748 A through E, 479, 750  
23 A through C, 751, 752, 753 A  
24 through C, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit No.  
4 754, 577 A through F, 756 A  
5 and B, 757, 758, 759 A through  
6 D, 760, 761, 762 A through C,  
7 763, 764, 765, 766 A and B,  
8 767 A and B, 768, 769, 770 A  
9 through D, 771, 772 A through  
10 G, 773, 774 A through C, 775 A  
11 through D, 776, 777, 778 A  
12 through C, 779 A through E,  
13 780 A through D, 781 A and B,  
14 782, 783, 784, 785, 786 A and  
15 B, 787 A through D, 788, 789 A  
16 and B, 790, 791 A through H,  
17 792, 793, 794, 795 A through  
18 D, 796, 797 A and B, 798 A and  
19 B, 799, 800, 801, 802 A  
20 through C, 803 A through C,  
21 804, 805, 806 A and B, 807,  
22 808 A and B, 809 A and B, 810,  
23 811 A through F, 812 A through  
24 C, 813, and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 814 A through C, 815, 816 A  
5 through C, 817, 818, 819, 820,  
6 821 A and B, 822 A and B, 833  
7 A and B, 824 A through F, 825  
8 A through E, 826 A through C,  
9 827, 828 A through E, 829, 830  
10 A through K, 831 A through C,  
11 832 A through I, 833 A through  
12 E, 834 A and B, 835 A through  
13 D, 836 A through C, 837 A  
14 through C, 838, 839, 840 A  
15 through D, 841 A through H,  
16 842 A through B, 843 A and B,  
17 844, 845 A and B, 845 A  
18 through M, 847, 848 A through  
19 F, 849 A through D, 850, 851 A  
20 and B, 852, 853, 854 A and B,  
21 855 A through C, 856 A and B,  
22 857 A through D, 858, 859 A  
23 and B, 860, 861, 862 A through  
24 E, 863 A through E, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 864 A through C, 865 A through  
5 F, 866 A through G, 867 A  
6 through C, 868 A through E,  
7 869, 870 A through E, 871, 872  
8 A and B, 873, 874, 875, 876,  
9 877, 878 A through E, 879 A  
10 through D, 880 A through C,  
11 881, 882 A and B, 883 A  
12 through F, 884 A through E,  
13 885 A through D, 886 A and B,  
14 887 A through D, 888 A through  
15 C, 889 A and B, 890, 891, 892,  
16 893, 894, 895, 896 A through  
17 D, 897 A through D, 898 A and  
18 B, 899, 900, 901 A through E,  
19 902 A through C, 903 A and B,  
20 904, 905 A through F, 906,  
21 907, 908, 909, 910 A and B,  
22 911, 912 A and B, 913 A  
23 through, 914 A and B, 915 A  
24 and B, 916, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 917 A through H, 918, 919,  
5 920, 921, 922 A and B, 923 A  
6 through D, 924 A through C,  
7 924 A through C, 925 A and B,  
8 926, 927, 928, 929 A and B,  
9 930, 931, 932 A through C,  
10 933, 934, 935 A through E, 936  
11 A through C, 937, 938 A and B,  
12 C and D, 939 A through I, 940,  
13 941, 942 A through I, 943 A  
14 through E, 944, 945 A and B,  
15 946 A through D, 947 A through  
16 E, 948 A through C, 949 A  
17 through H, 950, 951 A and B,  
18 952 A through D, 953 A and B,  
19 954 A and B, 955 A and B, 956  
20 A and B, 957 A through H. 958,  
21 959, 960 A and B, 961, 962,  
22 963 A through C, 964, 965 A  
23 through H, 966 A through E,  
24 967 A through C, and were  
25 receive in evidence.)



1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 968, 969 A and B, 970 A  
5 through C, 971 A through E,  
6 972, 973 A and B, 974, 975 A  
7 through G, 976 A through E,  
8 977 A through D, 978 A through  
9 F, 979, 980, 981 A and B, 982,  
10 983 A and B, 984, 985 A  
11 through D, 976, 987, 988 A  
12 through C, 989, 990 A through  
13 H, 991 A through C, 992, 993 A  
14 and B, 994 A through C, 995 A  
15 and B, 996, 997 A through C,  
16 998 A through E, 999 A through  
17 D, 1000 A through F, 101 A  
18 through F, 1002 A through G,  
19 103, 1004 A and B, 1005 A  
20 through J, 1006 A and B, 1007,  
21 1008 A through H, 1009 , 1010,  
22 1011 A and B, 1012 A through  
23 F, 1013, 1014, 1015 A through  
24 H, and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1016 A through E, 1017 A  
5 through D, 1018, 1019, 1020,  
6 1021, 1022, 1023 A through E,  
7 1024 A through C, 1025, 1026 A  
8 through C, 1027 A through C,  
9 1028 A through D, 1029 A  
10 through D, 1030, 1031 A  
11 through D, 1032 A through F,  
12 1033, 1034, 1035 A through H,  
13 1036 A through D, 1037 A and  
14 B, 1038 A through E, 1039,  
15 1049 A and B, 1041, 1042 A and  
16 B, 1043 A and B, 1044 A  
17 through F, 1045 A through C,  
18 1046, 1047, 1048 A through E,  
19 1049 A and B, 1050 A through  
20 F, 1051, 1052 A and B, 1053,  
21 1054, 1055 A through D, 1056 A  
22 through G, 1057 A and B, 1058  
23 A through C, 1059. 1060 A and  
24 B, 1061, 1062, 1063, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1064, 1065 A through G, 1066,  
5 1067 A through F, 1068 A and  
6 B, 1069 A through E, 1070,  
7 1071, 1072 A and B, 1073 A  
8 through C, 1074, 1075, 1076 A  
9 and B, 1077 A through D, 1078  
10 A and B, 1079 A through D,  
11 1080, 1081, 1082, 1083 A  
12 through D, 1084 A through C,  
13 1085, 1086, 1087 A and B, 1088  
14 A and B, 1089, 1090 A and B,  
15 1091 A and B, 1092 A and B,  
16 1093 A through G, 1094, 1095 A  
17 through F, 1096, 1097 A and B,  
18 1098 A through I, 1099 A  
19 through D, 1100, 1101 A  
20 through F, 1102 A through F,  
21 1103, 1104, 1105 1106 A and B,  
22 1107, 1108 A and B, 1109, 1110  
23 A through C, 1111, 1112 A  
24 through D, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1113 A through C, 1114, 115 A  
5 through C, 1116 A and B, 1117  
6 A through J, 1118 A through F,  
7 1119, 1120 A through C, 1121 A  
8 through C, 1122 A through F,  
9 1123, 1124, 1125, 1126, 1127,  
10 1128, 1129, 1130, 1131 A and  
11 B, 1132 A and B, 1133 A and B,  
12 1134, 1135, 1136, 1137, 1138 A  
13 through Q, 1139, 1140 A and B,  
14 1141 A and B, 1142 A and B,  
15 1143, 1145, 1146 A through C,  
16 1147, 1148, 1149 A through D,  
17 1150 A through C, 1151 A and  
18 B, 1152 A through D, 1153,  
19 1154 A and B, 1155, 1156,  
20 1157, 1158, 1159 A through B,  
21 1160, 1161 A through E, 1162,  
22 1163, 1164, 1165 A and B,  
23 1166, 1167 A through D, 1168,  
24 1169 A and B, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1170, 1171 A and B, 1172, 1173  
5 A through C, 1174, 1175, 1176  
6 A through C, 1177 A through D,  
7 1178 A and B, 1179, 1180 A  
8 through D, 1181 A through K,  
9 1182 A and B, 1183 A through  
10 C, 1184, 1185, 1186, 1187,  
11 1188, 1189, 1190, 1191 A  
12 through D, 1192, 1193 A  
13 through N, 1194, 1195, 1196,  
14 1197 A and B, 1198, 1199 A  
15 through C, 1200 A and B, 1210  
16 A through E, 1202 A and B,  
17 1203, 1204 A and B, 1205, 1206  
18 A through D, 1207 A and B,  
19 1208 A and B, 1209 A through  
20 D, 1210, 1211 A and B, 1212 A  
21 through D, 1213 A and B, 1214  
22 A and B, 1215, 1216 A and B,  
23 1217, 1218 A through C, 1219 A  
24 through H, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1220 A through I, 1221 A  
5 through F, 1222 A through G,  
6 1223 A through F, 1224 A  
7 through H, 1225 conversation  
8 E, 1226 A and B, 1227 A  
9 through F, 1228 A and B, 1229  
10 A and B, 1230 A and B, 1231 A  
11 and B, 1232 A and B, 1233 A  
12 and B, 1234, 1235, 1236, 1237,  
13 1238, 1239 A through E, 1240 A  
14 through E, 1241 A through J.  
15 1242, 1243 A through Z64, 1244  
16 A through C, 1245, 1246 A and  
17 B, 1247 A through F, 1248 A  
18 through H, 1249 A through S,  
19 1250 A through H, 1251 A  
20 through D, 1252 A through C,  
21 1253, 1254, 1255 A through G,  
22 1256 A through G, 1257 A  
23 through F, 1258 A through G,  
24 1259 A and B, 1260, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1261 A through F, 1262 A  
5 through L, 1263 A through T,  
6 1264 A through C, 1265 A and  
7 B, 1266 A and B, 1267 A  
8 through C, 1268 A and B, 1269  
9 A through C, 1270 A and B,  
10 1271 A and B, 1272 A and B,  
11 1273 A through E, 1274 A  
12 through K, 1275 A through L,  
13 1276 A through M, 1277 A  
14 through P, 1278 A through P,  
15 1279 A through L, 1280 A  
16 through J, 1981 A through Z4,  
17 1282 A through I, 1283 A  
18 through L, 1284 A through I,  
19 1285 A through G, 1286 A and  
20 B, 1287 A and B, 1288 A  
21 through F, 1289, 1290 A  
22 through Y, 1291 A through H,  
23 1293 A through H, 1294, 1985,  
24 1296, and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1297 A and B, 1298 A through  
5 E, 1299, 1300 A through F,  
6 1301, 1302, 1303, 1304, 1305 A  
7 through G, 1036 A through A  
8 through, 1307 A and B, 1308 A  
9 through C, 1309, 1310, 1311 A  
10 and B, 1312, 1313 A and B,  
11 1314 A and B, 1315 A through  
12 V, 1316 A through G, 1317 A  
13 through C, 1318 A and B, 1319,  
14 1320 A through C, 1321 A  
15 through D, 1322 A through C,  
16 1323 A through C, 1324 A  
17 through E, 1325 A through D,  
18 1326 A through C, 1327 A  
19 through C, 1328 A through C,  
20 1329 A through C, 1330 A  
21 through G, 1331 A through H,  
22 1332 A through H, 1333 A  
23 through J, 1334 A through H,  
24 and were received in  
25 evidence.)



1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1335 A through H, 1336, 1337 A  
5 through C, 1338 A through C,  
6 1339 A through C, 1340 A  
7 through C, 1341 A through C,  
8 1342 A through D, 1343 A and  
9 B, 1344 A through H, 1345 A  
10 through H, 1346 A through H,  
11 1347 A through H, 1348 A  
12 through H, 1349 A through H,  
13 1350 A through K, 1351, 1352 A  
14 and B, 1353 A through C, 1354  
15 A through Z51, 1355 A through  
16 H, 1356 A through X, 1357 A  
17 through F, 1358 A through C,  
18 1359 A and B, 1350 A through  
19 C, 1361 A and B, 1362 A and B,  
20 1363 A through D, 1364 A  
21 through P, 1365 A and B, 1366  
22 A and B, 1367 A through C,  
23 1368 A through G, 1369 A  
24 through C, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1370 A through D, 1371 A and  
5 B, 1372 A and B, 1373 A and B,  
6 1374 A and B, 1375 A and B,  
7 1376 A through C, 1377 A and  
8 B, 1378 A and B, 1379 A and B,  
9 1380 A through C, 1381 A  
10 through C, 1382 A through C,  
11 1383 A through, 1384 A through  
12 S, 1385 A and B, 1386, 1387 A  
13 through C, 1388 A through D,  
14 1389 A through C, 1390 A  
15 through C, 1391 A and B, 1392  
16 A and B, 1393 A through D,  
17 1394 A and B, 1395 A and B,  
18 1396 A through U, 1397 A  
19 through H, 1398 A through C,  
20 1399 A through E, 1400 A  
21 through X, 1401 A through C,  
22 1402 A through C, 1043 A  
23 through H, 1404 A through G,  
24 and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1405 A through H, 1406 A  
5 through H, 1407 A through,  
6 1408 A through F, 1409 A  
7 through Y, 1410 A through J,  
8 1411 A and B, 1412 A and B,  
9 1413, 1414, 1415 A through P,  
10 1416 A through G, 1417 A  
11 through L, 1418 A through H,  
12 1419 A through L, 1420, 1421 A  
13 through D, 1422, 1423 A  
14 through F, 1424 A through J,  
15 1425 A through D, 1426 A and  
16 B, 1427 A and B, 1428 A  
17 through H, 1429 A and B, 1430  
18 A through E, 1431 A through P,  
19 1432 A through F, 1433, 1434 A  
20 and B, 1435, 1436, 1437 A and  
21 B, 1438, 1439 A through C,  
22 1440 A and B, 1441 A and B,  
23 1442 A and B, 1443 A and B,  
24 1444 A through H, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1445 A through E, 1446 A  
5 through O, 1447 A and B, 1448  
6 A through F, 1449 A through  
7 Z29, 1450 A through Z6, 1451 A  
8 through H, 1452 A through H,  
9 1453 A through P. 1454 A  
10 through L. 1455 A through P,  
11 1456 A through L, 1457 A  
12 through L, 1458 A through L,  
13 1459 A through, 1460 A through  
14 M, 1461 A through L, 1462 A  
15 through L, 1463 A through P,  
16 1464 A through K, 1465 A  
17 through L, 1466 A through P,  
18 1467 A through L, 1468 A  
19 through P, 1469 A through H,  
20 1470 A through L, 1471 A  
21 through L, 1472 A through P,  
22 1473 A through P, 1474 A  
23 through L, 1475 A through L,  
24 1476 A through L, and were  
25 received in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1477 A through L, 1478 A  
5 through P, 1479 A through P,  
6 1480 A through L, 1481 A  
7 through Z56, 1482 A through  
8 Z69, 1483 A through Z67, 1484  
9 A through Z54, 1485 A through  
10 D, 1486 A and B, 1487 A and B,  
11 1488 A and B, 1489 A and B,  
12 1490, 1491 A and B, 1492 A and  
13 B, 1493, 1494, 1495 A and B,  
14 1496 A and B, 1497, 1498,  
15 1499, 1500 A and B, 1501, 1502  
16 A and B, 1503, 1504 A and B,  
17 1505, 1506 A and B, 1570 A and  
18 B, 1580 A through C, 1509 A  
19 and B, 1510 A and B, 1511 A  
20 through C, 1512 A and B, 1513  
21 A and B, 1514 A and B, 1514 A  
22 and B, 1515 A and B, 1516 A  
23 and B, 1517 A and B, 1518 A  
24 and B, and were received in  
25 evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1591 A through R, 1520 A and  
5 B, 1521, 1522 A through P,  
6 1523 A through H, 1524 A  
7 through Z10, 1525 A through B,  
8 1526 A through H, 1527 A  
9 through H, 1528, 1529, 1530,  
10 1531, 1532 A and B, 1533,  
11 1534, 1535, 1536, 1537, 1538 A  
12 and B, 1539 A and B, 1540 A  
13 and B, 1541, 1542, 1543, 1544,  
14 1545 A through E, 1546 A  
15 through D, 1547, 1548, 1549 A  
16 through Z9, 1550, 1551 A  
17 through Z5, 1552 A through W,  
18 1553 A and B, 1554 A and B,  
19 1555 A through L, 1556 A  
20 through E, 1557 A through L,  
21 1558 A through F, 1559, 1560,  
22 1561 A through F, 1562 A  
23 through H, 1563, 1564 A  
24 through C, and were received  
25 in evidence.)

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1565 A through K, 1566 A  
5 through H, 1567 A through H,  
6 1568 A through D, 1569 A and  
7 B, 1570 A through E, 1571 A  
8 through L, 1572 A and B, 1573  
9 A through D, 1574 A and B,  
10 1575 A through J, 1576 A  
11 through Z174, 1577 A through  
12 Z51, 1578 A through Z62, 1579  
13 A through Z71, 1580 A through  
14 Z43, 1581 A through Z24, 1582  
15 A through Z5, 1583 A through  
16 Z33, 1584 A through Z34, 1585  
17 A through Z14, 1586 A through  
18 Z131, 1587 A through Z198,  
19 1588 A through Z31, 1589 A  
20 through Z88, 1591 A through P,  
21 1592 A through Y, 1593 A  
22 through M, 1594 A through X,  
23 1595 A through W, and were  
24 received in evidence.)

25 //

1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit Nos.  
4 1596 A through T, 1597 A  
5 through O, 1598 A through Z12,  
6 1599 A through Z16, 1600 A  
7 through V, 1601 A through Z14,  
8 1602 A through Z40, 1603 A  
9 through Z91, 1604 A through  
10 Z29, 1605 A through Z31, 1605  
11 A through Z40, 1607 A through  
12 Z33, 1608 A through Z62, 1609  
13 A through Z47, 1610 A through  
14 Z55, 1611 A through Z105,  
15 1612, 1613 A and B, 1614,  
16 1615, 1616, 1617, 1618 A  
17 through D, 1619, 1620 A  
18 through D, 1621 A through Z18,  
19 1622, 1623 A through H, 1624,  
20 1625 A through V, 1626 A and  
21 B, 1627 A through H, 1628,  
22 1629 A and B, 1630, 1631,  
23 1632, 1633, 1634 A through Z9,  
24 1635 A through E, and were  
25 received in evidence.)



1 (The documents referred to  
2 were marked for identification  
3 as Complainant's Exhibit No.  
4 1636 A through E, 1637 A  
5 through H, 1638 A and B, 1639  
6 A through M, 1640 A through H,  
7 1641 A and B, 1642 A through  
8 D, 1643 A through H, 1644 A  
9 and B, 1645 A through F, 1646,  
10 1647, 1648 A and B, 1649 A  
11 through Z72, 1650 A through  
12 Z82, 1651 A through Z79, 1651  
13 A through Z151, 1653 A through  
14 K, 1654 A through U, 1655,  
15 1656, and 1658, and were  
16 received in evidence.)

17 JUDGE PARKER: Who is next?

18 MR. SFIKAS: Let me just make a further comment,  
19 Your Honor.

20 JUDGE PARKER: All right.

21 MR. SFIKAS: Among the exhibits that have been  
22 moved and entered were depositions. And the depositions do  
23 not comply with either the Federal Rules or the FTC rules  
24 with reference to their being admitted for the purpose of  
25 being substantive testimony, Your Honor. Understand that

# ATTACHMENT D

**In The Matter Of:**

*SCHERING-PLOUGH CORP. & UPSHER-SMITH LABS  
MATTER NO. D09297*

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*IAN TROUP*

*October 25, 2001*

**CONFIDENTIAL**

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*For The Record, Inc.*

*Court Reporting and Litigation Support*

*603 Post Office Road*

*Suite 309*

*Waldorf, MD USA 20602*

*(301) 870-8025 FAX: (301) 870-8333*

Original File 11025TRO.ASC, 154 Pages  
Min-U-Script® File ID: 2586922689

**Word Index included with this Min-U-Script®**

23] BY MS. BOKAT:  
24] Q: In the first half of 1997, were the legal fees  
25] for the litigation against Schering-Plough increasing?

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(1) MR. CURRAN: Objection as to form.  
(2) We've produced those documents to you. It's a  
(3) statement of fact.

# ATTACHMENT E

**In The Matter Of:**

*SCHERING-PLOUGH CORP. & UPSHER-SMITH LABS  
MATTER NO. D09297*

---

*DAVID W. POORVIN  
December 10, 2001*

---

*For The Record, Inc.  
Court Reporting and Litigation Support  
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Waldorf, MD USA 20602  
(301) 870-8025 FAX: (301) 870-8333*

Original File 11210POO.ASC, 249 Pages  
Min-U-Script® File ID: 2970002189

**Word Index included with this Min-U-Script®**

122 MS. SHORES: I'll object. I think  
123 the document speaks for itself.

122  
123  
124  
125

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(6) MS. SHORES: Objection. The  
(7) document speaks for itself. Calls for  
(8) speculation to the extent you're asking  
(9) him to opine on what the author meant of a  
(10) document that he doesn't recall ever  
(11) seeing before.



(22) MS. SHORES: Objection. The  
(23) document speaks for itself.

(24) MS. SHORES: Objection. The  
(25) document speaks for itself. Calls for

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[3] MS. SHORES: Objection. The  
[4] document speaks for itself, peak year.

- (1) MS. SHORES: Objection. This
- (2) document speaks for itself.