

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

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

ORDER RE GPHA'S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

This matter is before the Commission on the Motion of the Generic Pharmaceutical Association ("GPhA") for Clarification, or in the Alternative, for Leave to File Brief as Amicus Curiae by September 30, 2002. The Commission grants GPhA's Motion for Leave.

The Federal Trade Commission Rules of Practice provide, in relevant part, that "[a] brief of an amicus curiae may be filed by leave of the Commission granted on motion with notice to the parties or at the request of the Commission...." 16 C.F.R. § 3.52(j) (2002). The Rule enumerates further that "an amicus curiae shall file its brief within the time allowed the parties whose position as to the affirmance or reversal the amicus brief will support." *Id.*

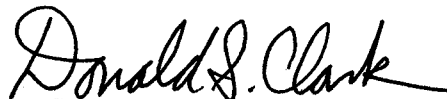
Counsel for the GPhA state in their Motion for Leave that their proposed amicus brief will support Respondents (who will argue in their Answering Brief that the Initial Decision of the Administrative Law Judge should be affirmed). Pursuant to the Commission's September 4, 2002 Order Granting NACD's Motion for Leave to File Brief as Amicus Curiae, Respondents must file their Answering Brief no later than September 30, 2002. Accordingly, GPhA's Motion for Leave, filed September 6, 2002, is timely.

Further, GPhA contends that due to its broad industry perspective, it would benefit the public interest for the Commission to review the material it intends to submit. The Commission concurs that review of GPhA's brief may assist the Commission in its review of the issues presented on appeal. GPhA's Motion for Leave is hereby GRANTED. Its proposed amicus brief must be filed no later than September 30, 2002.

Accordingly,

IT IS ORDERED that the GPhA be, and it hereby is, granted leave to file an amicus curiae brief. Said brief shall be filed with the Commission no later than September 30, 2002.

By the Commission.



Donald S. Clark
Secretary

ISSUED: September 27, 2002