

## **SETTLEMENT AGREEMENT**

1. **WHEREAS**, this Settlement Agreement is entered into between the United States of America, acting through the United States Attorney's Office for the Eastern District of Pennsylvania and the United States Drug Enforcement Administration ("DEA"), and McNeil-PPC, Inc. ("McNeil").

2. **WHEREAS**, Pfizer, Inc. acquired Warner-Lambert Company on or about June 19, 2000. Warner-Lambert Company was a wholly owned subsidiary of Pfizer, Inc. Pfizer, Inc. and Warner-Lambert Company owned and were responsible for regulatory compliance and for maintaining the appropriate DEA registrations at the facility located 400 West Lincoln Ave, Lititz, Pennsylvania, which is the subject of this agreement during the time at issue in this agreement. Johnson & Johnson (J&J) is a corporation, which maintains its principal place of business at One Johnson & Johnson Plaza, New Brunswick, NJ, 08933. J&J completed the acquisition of Pfizer's Consumer Healthcare business on December 20, 2006. McNeil-PPC, Inc., a wholly owned subsidiary of J&J, currently owns and operates the facility located at 400 West Lincoln Ave, Lititz, Pennsylvania and is currently responsible for maintaining the appropriate DEA registrations at that facility. McNeil is the successor in interest for the activities at issue in this agreement and therefore legally liable for the covered conduct described below.

3. **WHEREAS**, Warner Lambert was, at the relevant time, registered with the DEA as a manufacturer of controlled substances. Warner Lambert was also registered to import pseudophedrine, a list 1 chemical at its Pennsylvania plant.

4. **WHEREAS**, importers of products containing List 1 chemicals must file an import declaration, DEA Form 486, no later than 15 days prior to the importation of the product, or shall be subject to a fine of up to \$25,000 for each importation. 21 U.S.C. §961.

5. **WHEREAS**, the United States' claims in this matter arise out of violations of DEA regulations and the Controlled Substances Act by Warner-Lambert from 2001 until April 2005 specifically:

a. The claims of the United States are for penalties and injunctive relief under the Controlled Substances Act, 21 U.S.C. § 801, et seq., (hereafter the "Act"), as amended by the Chemical Diversion and Trafficking Act of 1988, Pub. L. No. 100-690, Title VI, Subtitle A, 102 Stat. 4312-20; the Domestic Chemical Diversion Control Act of 1993, Pub. L. No. 103-200, 107 Stat. 2333; and the Comprehensive Methamphetamine Control Act of 1996, Pub. L. No. 104-237, 110 Stat. 3099;

b. Warner Lambert at Lititz, Pa. had been assigned registration number PW0190568 by the United States Drug Enforcement Administration;

c. From 2001 until April 2005 Warner Lambert imported Benedryl-D, a product which contained pseudophedrine, a list 1 chemical regulated under the Act, from Canada without filing the required DEA import declaration, DEA form 486. 21 U.S.C. § 802(34) defines a "list 1 chemical" as "a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of [the Act] and is important to the manufacture of the controlled substances, and such term includes...[p]seudoephedrine." Warner Lambert imported Benedryl-D containing pseudophedrine into Lititz, Pennsylvania from Canada 73 times without filing the DEA Form 486. (Hereinafter "the Covered Conduct").

6. **WHEREAS**, this Agreement is neither an admission of liability by McNeil nor a concession by the United States that its claims are not well founded.

7. **WHEREAS**, to avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

**TERMS AND CONDITIONS**

8. McNeil agrees to pay \$ 511,000.00 (Five hundred eleven thousand dollars) (the "Settlement Amount") to the United States. McNeil agrees to pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office, Eastern District of Pennsylvania. McNeil agrees to make this electronic funds transfer no later than the ten days after the Effective Date of this Agreement. McNeil may make payment earlier than required by this agreement.

9. Subject to the exceptions in Paragraph 10, below, in consideration of the obligations of McNeil set forth in this Agreement, conditioned upon McNeil's full payment of the Settlement Amount, and subject to Paragraph 13, below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment made under this Agreement), the United States (on behalf of itself and the DEA) agrees to release McNeil from any civil monetary damages and/or penalties under the Controlled Substances Act, 21 U.S.C. § 801, et seq., (hereafter the "Act"), as amended by the Chemical Diversion and Trafficking Act of 1988, Pub. L. No. 100-690, Title VI, Subtitle A, 102 Stat. 4312-20; the Domestic Chemical Diversion Control Act of 1993, Pub. L. No. 103-200, 107 Stat. 2333; and the Comprehensive Methamphetamine Control Act of 1996, Pub. L. No. 104-237, 110 Stat. 3099 for the Covered Conduct. No individuals are released by this Agreement.

**10. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including McNeil) are the following:**

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);**
- b. Any criminal liability;**
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care programs;**
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;**
- e. Any liability based upon such obligations as are created by this Agreement;**

**11. McNeil waives and shall not assert any defenses McNeil may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.**

**12. McNeil fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind**

and however denominated) that McNeil has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

13. McNeil warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following its payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to McNeil, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which McNeil was or became indebted, on or after the date of this transfer, all within the meaning of 11 U.S.C. § 548(a)(1).

14. If, within 91 days of the Effective Date of this Agreement or any payment made under this Agreement, McNeil commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of McNeil's debts, or seeking to adjudicate McNeil as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for McNeil or for all or any substantial part of McNeil's assets, McNeil agrees as follows:

a. McNeil's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. §§ 547 or 548, and McNeil shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) McNeil's obligations under this Agreement may be avoided under 11 U.S.C. §§ 547 or 548; (ii) McNeil was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to McNeil.

b. If McNeil's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against McNeil for the claims that would otherwise be covered by the releases provided in Paragraph 7, above. J&J agrees that (i) any such claims, actions, or proceedings brought by the United States are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceeding described in the first clause of this Paragraph, and McNeil shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) McNeil shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceedings that are brought by the United States within 90 calendar days of written notification to McNeil that the releases herein have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on March 5, 2008; and (iii) the United States has a valid claim against McNeil in the amount of \$ 1,725,000.00 and

the United States may pursue its claim in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding.

c. McNeil acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

15. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter. It is agreed that all costs incurred on behalf of McNeil in connection with the matters covered by this Agreement including, without limitation, the defense of McNeil and the preparation of this Agreement and performance thereunder, shall be borne solely by McNeil.

16. McNeil represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

17. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the Eastern District of Pennsylvania.

18. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

19. Each of the signatories to this Agreement represents that it has the full power and authority to enter into this Agreement and to perform the obligations set forth herein, and that this Agreement is being executed on the party's behalf by a person who is fully authorized to do so.

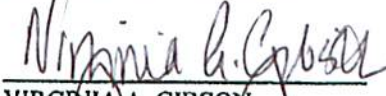
20. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

21. This Agreement is binding on McNeil's successors, transferees, heirs, and assigns.
22. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public
23. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.
24. This Agreement shall become final and binding only upon signing by both parties hereto.
25. This Agreement, and any document(s) executed pursuant hereto, constitute the entire Agreement between the United States and McNeil-PPC, Inc. with respect to the subject matter of this Agreement, and may not be modified, amended or terminated except by a written agreement signed by the parties and specifically referring to this Agreement.

Dated: 7.24.08

UNITED STATES OF AMERICA

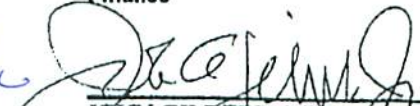
By:

  
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