

COPY

No. 91-13079

11-17-95

THE STATE OF TEXAS,

Plaintiff,

v.

ABBOTT LABORATORIES,  
AMERICAN ACADEMY OF  
PEDIATRICS, BRISTOL-  
MYERS SQUIBB COMPANY,  
MEAD JOHNSON & COMPANY,  
and ROSS LABORATORIES,

Defendants.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

331st JUDICIAL DISTRICT

FINAL CONSENT JUDGMENT AND AGREED PERMANENT INJUNCTION

This cause is before the Court on the written agreement of Plaintiff, the State of Texas ("the State") and Defendants Abbott Laboratories, Ross Products Division, a division of Abbott Laboratories (referred to in State's Fourth Amended Original Petition as Ross Laboratories), Bristol-Myers Squibb Company, and Mead Johnson & Company, including Mead Johnson Nutritional group ("Defendant manufacturers") for entry of a final consent judgment and agreed permanent injunction. The Court is fully advised and on consent of the parties, it is hereby

ORDERED, ADJUDGED AND DECREED:

I.

JURISDICTION

1. The State's Fourth Amended Original Petition seeks civil fines, damages, attorney fees and investigative costs under §§ 15.20 and 15.21 of the Texas Free Enterprise and Antitrust Act ("the "Texas Antitrust Act") TEX. BUS. & COM. CODE § 15.01 et seq. and permanent injunctive relief under §§ 15.20(b) and 15.21(b) of the Texas Antitrust Act, for alleged violations of the Texas Antitrust Act both within and outside the State of Texas, arising from infant formula pricing and marketing practices of the

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Defendant manufacturers. Plaintiff's Petition further seeks damages and punitive damages for fraud and civil conspiracy under the state common law.

2. This Court has jurisdiction over the subject matter of this action and the parties hereto under § 15.26 of the Texas Antitrust Act and under Article V, Section 8 of the Texas Constitution.

## II.

### APPLICABILITY

1. The State and Defendant manufacturers have compromised and settled all the State's claims for relief against Defendant manufacturers and their parents, subsidiaries, divisions and indemnitees arising out of the pricing and marketing of infant formula products in Texas prior to the date of this Final Consent Judgment and Agreed Permanent Injunction ("Consent Judgment"). Further, the State and Defendant manufacturers have compromised and settled any potential but unasserted claims for relief against the State arising out of the State's investigation or bringing of this lawsuit. The State and Defendant manufacturers have agreed to the entry of this Final Consent Judgment and Agreed Permanent Injunction and have entered into a Release and Settlement Agreement dated November 15, 1995 ("Settlement Agreement").

2. Defendant manufacturers have denied and do deny all charges of wrongdoing of any kind whatsoever and have asserted affirmative defenses against the claims alleged in the State's Fourth Amended Original Petition.

3. Neither this Consent Judgment nor Defendant manufacturers' consent thereto constitute a finding or determination or an admission that Defendant manufacturers have engaged in conduct in violation of the antitrust laws or any other laws. For purposes of § 15.22 of the Texas Antitrust Act, this injunction constitutes a final consent judgment entered before any testimony at trial has been taken. Neither this Consent Judgment nor the Settlement Agreement nor Defendant manufacturers' consent thereto may be used by the parties hereto as evidence or in any other way in this action or in any other proceeding or litigation.

4. Nothing contained in this Final Consent Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

### III.

#### WAIVER OF APPEAL

Defendant manufacturers and the State freely and without coercion waive all rights to appeal or otherwise challenge or contest the validity of this Final Consent Judgment and Agreed Permanent Injunction, except as otherwise provided herein.

### IV.

#### DEFINITIONS

For the purposes of this Order, the following definitions shall apply:

1. "Infant formula" means a food, as described in 21 U.S.C. § 321(aa), which purports to be or is represented for special dietary use solely as a food for infants by reason of simulation of human milk or its suitability as a complete or partial substitute for human milk.

2. "WIC" means the Special Supplemental Food Program for Women, Infants and Children as described in 42 U.S.C. §§ 1786 et seq., which is administered by the respective states and American Indian tribes, and is regulated by the United States Department of Agriculture. The WIC program distributes food products, including infant formula, and nutrition education to participants who qualify on the basis of income and nutritional risk. The Texas Department of Health administers the WIC program in Texas ("the Texas WIC Program").

3. "Competitive manufacturer of infant formula" means a company engaged in the manufacture or sale of infant formula in the United States. For purposes of this definition, the successors, assigns, subsidiaries, joint venture partners, divisions, groups, and affiliates controlled by a defendant manufacturer or its subsidiaries are not "competitive manufacturers" of that defendant manufacturer.

V.

STATUTORY LIEN

The statutory lien pursuant to Article 1302-5.08 of the Texas Revised Civil Statutes on all property of the Defendant manufacturers are dissolved.

VI. -

INJUNCTION

EACH DEFENDANT MANUFACTURER, ITS PREDECESSORS, SUCCESSORS, ASSIGNS, SUBSIDIARIES, JOINT VENTURE PARTNERS, DIVISIONS, GROUPS, AND AFFILIATES CONTROLLED BY SUCH DEFENDANT MANUFACTURER, GROUPS, AND AFFILIATES CONTROLLED BY ITS SUBSIDIARIES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES, AND THEIR SUCCESSORS AND ASSIGNS, ARE HEREBY PERMANENTLY RESTRAINED AND ENJOINED FROM, DIRECTLY OR INDIRECTLY, THROUGH ANY CORPORATION, SUBSIDIARY, AFFILIATE, DIVISION, OR OTHER DEVICE:

1. Intentionally exchanging information with any competitive manufacturer of infant formula relating to the advertising in the United States, its territories or possessions, of infant formula through the mass media directly to the consumer.

2. Entering into or attempting to enter into any agreement, or enforcing any such agreement, with any other competitive manufacturer of infant formula to refrain from or restrict otherwise legal infant formula marketing practices in the United States, its territories or possessions.

3. Soliciting any competitive manufacturer of infant formula to adhere to or adopt any provision restricting advertising in the United States, its territories or possessions, of infant formula through the mass media directly to the consumer, including, but not limited to, such provisions contained in the Infant Formula Council's Draft Policies and Practices, the American Academy of Pediatrics' Marketing Code or policy statements, the World Health Organization International Code of Marketing of Breast-Milk Substitutes, or any other industry-wide policy statement or proposal on domestic infant formula marketing practices; provided,

however, that nothing contained in this paragraph shall prevent any Defendant manufacturer from discussing or communicating to persons other than intentionally to competitive manufacturers of infant formula its position concerning the desirability or appropriateness of any such policies, practices, codes, or statements.

4. Entering into or attempting to enter into any agreement, or enforcing any such agreement, with any competitive manufacturer of infant formula regarding rebates to be bid for the right to supply infant formula to any WIC program or group of programs in which the state of Texas is a participant.

5. Requesting, recommending or knowingly encouraging any state of Texas WIC official to administer bidding on infant formula rebates in a manner contrary to the requirements of applicable federal or Texas statutes or regulations.

6. Disclosing, prior to the deadline for submission of sealed bids to a WIC program or group of programs in which the state of Texas is a participant, its intention to participate in the sealed bid process or the amount of its intended bid to that WIC program or group of programs.

#### VII.

#### CONSTRUCTION OF ORDER

1. Nothing contained in this Order shall be construed to prevent Defendant manufacturers from exercising rights permitted under the First Amendment to the United States Constitution to petition any government executive agency or legislative body in the United States concerning legislation, rules, programs or procedures, or to participate in any government administrative or judicial proceeding in the United States, its territories, or possessions, including, but not limited to, responding to a request for information from any government official.

2. Nothing contained in this Order shall prohibit Defendant manufacturers from exchanging technical, scientific, or safety

information on infant formula with any other competitive manufacturer of infant formula or from licensing proprietary information or technology, provided that such information does not relate to the advertising of infant formula directly to consumers through mass media.

3. Nothing contained in this Order shall prohibit Defendant manufacturers from taking any action to challenge or prevent advertising, promotion, or marketing practices that it reasonably believes would be false or deceptive within the meaning of § 5 of the Federal Trade Commission Act, the Lanham Act, the Texas Deceptive Trade Practices Act, or otherwise contrary to law.

#### VIII.

##### COMPLIANCE

1. Commencing the date this Order becomes final and for a period of three (3) years thereafter, each newly appointed member of the Board of Directors, newly appointed or hired divisional or corporate officer or managerial employee of Defendant manufacturers or their subsidiaries with management responsibility for the manufacture, sale or marketing of infant formula (including marketing and participation in WIC programs) in the United States, its territories, and possessions, shall be provided a copy of this Order within thirty (30) days of the date on which such person is newly appointed or employed.

2. Each Defendant manufacturer shall provide the Office of the Attorney General of Texas with verified statements of compliance with paragraph VIII.1., above and a copy of its then current corporate policy on antitrust compliance beginning June 11, 1996, and annually thereafter for a period of two (2) years.

3. For a period of three (3) years from the date this Order becomes final, each Defendant manufacturer shall maintain and make available to the Office of the Attorney General of Texas for inspection and copying upon reasonable notice, records adequate to

show such Defendant manufacturers' compliance with paragraphs VIII.1. and 2., above.

4. Each Defendant manufacturer shall, within twenty (20) days of such information coming to the attention of such Defendant manufacturer's regional or national sales management (or comparable successor positions) or executive management, report to the Antitrust Section of the Office of the Attorney General of Texas, in writing, any contact, communication, or solicitation to such Defendant manufacturer from any competitive manufacturer of infant formula, any United States trade organization of such manufacturers relating to adoption of, or agreement to, any industry marketing or ethical code which would restrict or prohibit promotion of infant formula in the United States by mass media advertising directly to the consumer.

IX.

JURISDICTION RETAINED

Jurisdiction shall be retained by this Court for the purpose of enabling any party hereto to apply for such further orders and directions as may be necessary or appropriate for the enforcement of any of the provisions contained in this Final Consent Judgment and Agreed Permanent Injunction and in the Settlement Agreement.

X.

NOTIFICATION OF CORPORATE CHANGES

Defendant manufacturers shall notify the Office of the Attorney General of Texas at least thirty (30) days prior to any proposed change in Defendant manufacturers that may affect compliance with this Order, including, but not limited to, dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, change of name, or change of address.

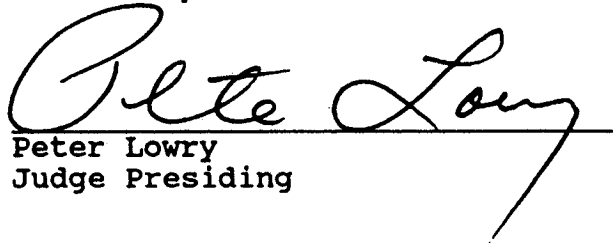
XI.

AGREED DISMISSAL

1. It is hereby determined that there is no just reason for delay, and with settlement of Plaintiff's claims and consent to and entry of this permanent injunction, there is no reason for further participation by Defendants in this case. Defendants Abbott Laboratories, Ross Products Division, Bristol-Myers Squibb Company, and Mead Johnson & Company are therefore dismissed from this case with prejudice. Each party will bear its own costs, except as otherwise stated in the parties' Settlement Agreement.

2. All orders and relief not expressly granted herein are denied.

DONE AND ORDERED this 16th day of November, 1995.

  
Peter Lowry  
Judge Presiding



CONSENT

Plaintiff State of Texas, ex rel., Dan Morales and Defendants Abbott Laboratories, Ross Products Division, Bristol-Myers Squibb Company, and Mead Johnson & Company consent to the entry of the foregoing Final Consent Judgment and Agreed Permanent Injunction of Defendants Abbott Laboratories, Ross Products Division, Bristol-Myers Squibb Company and Mead Johnson & Company.

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State Bar No. 16573000

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JOHNSON & COMPANY

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BRIAN S. GREIG  
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First Assistant Attorney General

LAQUITA A. HAMILTON  
Deputy Attorney General for  
Litigation

THOMAS P. PERKINS, JR.  
Assistant Attorney General  
Chief, Consumer Protection Division

MARK TOBEY  
Assistant Attorney General  
Deputy Chief for Antitrust

By:

  
REBECCA FISHER

State Bar No. 07057800

Assistant Deputy Chief for  
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Austin, Texas 78711-2548

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ATTORNEYS FOR PLAINTIFF  
THE STATE OF TEXAS

COPY

No. 91-13079

THE STATE OF TEXAS,  
Plaintiff,

v.

ABBOTT LABORATORIES,  
AMERICAN ACADEMY OF  
PEDIATRICS, BRISTOL-  
MYERS SQUIBB COMPANY,  
MEAD JOHNSON & COMPANY,  
and ROSS LABORATORIES,

Defendants.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

331st JUDICIAL DISTRICT

**RELEASE AND SETTLEMENT AGREEMENT**

This Release and Settlement Agreement ("Agreement") is made and entered into by and between Plaintiff, the State of Texas and its agencies, including the Texas Department of Health, ("the State"), and Defendants Abbott Laboratories, Ross Products Division, a division of Abbott Laboratories (referred to in State's Fourth Original Amended Petition as Ross Laboratories), Bristol-Myers Squibb Company, and Mead Johnson & Company, including Mead Johnson Nutritional group ("Defendant manufacturers"). The parties to this Agreement are referred to collectively hereinafter as "the Parties."

WHEREAS, the above-captioned action (the "Action") is currently pending in the District Court of Travis County, 331st Judicial District, Texas (the "Court");

WHEREAS, the State of Texas, through its Attorney General Dan Morales and his duly authorized representatives, filed its Fourth Amended Original Petition and prior petitions herein against the defendants alleging violations of Section 15.05 of the Texas Free Enterprise and Antitrust Act of 1983 ("Texas Antitrust Act"), TEX. BUS. & COM. CODE §15.01 et seq., relating to the pricing and marketing of infant formula, and

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WHEREAS, the State's Fourth Amended Original Petition and prior petitions in the ~~Action allege, among other things,~~ that Defendant manufacturers, with the American Academy of Pediatrics, participated in a conspiracy regarding pricing and marketing of infant formula and WIC rebates for those products, in violation of state antitrust laws, state common law fraud and civil conspiracy laws, or otherwise violated such laws;

WHEREAS, Defendant manufacturers are the two largest domestic competitors in the manufacture and sale of infant formula with historic aggregate shares of domestic sales volumes of over 85 percent;

WHEREAS Defendant manufacturers have denied and do deny all charges of wrongdoing of any kind whatsoever and have asserted affirmative defenses against the claims alleged in the State's Fourth Amended Original Petition and prior petitions in the Action; and

WHEREAS, the Parties have consented to enter into this Agreement and have consented to entry of a Final Consent Judgment herein, without trial or adjudication of any issue of fact or law and without any admission by the Defendant manufacturers of any liability whatsoever; and

WHEREAS, the State and Defendant manufacturers have concluded that entering into this Agreement is in each party's interest, and completely resolves all disputes and differences between them relating in any way to the Action;

NOW, THEREFORE, in consideration of the premises, covenants and agreements herein set forth, the sufficiency of which the Parties hereby acknowledge, it is agreed by and between the undersigned that the claims of the State against Defendant manufacturers be settled and compromised on the following terms and conditions:

I.

DEFINITIONS

A. As used in this Agreement, the term "Infant Formula" means a food, as described in 21 U.S.C. § 321(aa), which purports to be or is represented for special dietary use solely as a food for infants by reason of simulation of human milk or its suitability as a complete or partial substitute for human milk.

B. "WIC" means the Special Supplemental Food Program for Women, Infants and Children as described in 42 U.S.C. §§ 1786 et seq., which is administered by the respective states and American Indian tribes, and is regulated by the United States Department of Agriculture. The WIC program distributes food products, including infant formula, and nutrition education to participants who qualify on the basis of income and nutritional risk. The Texas Department of Health administers the WIC program in Texas ("the Texas WIC Program").

## II.

### FINAL CONSENT JUDGMENT AND INJUNCTION

A. Simultaneously with the signing of this Agreement, the Parties shall execute for filing with the Court a Final Consent Judgment and Agreed Permanent Injunction ("the Consent Judgment") in the form attached hereto as Exhibit C. The Consent Judgment shall then be given and entrusted to counsel for the State for filing with the Court. The Parties agree that they will exercise their best efforts to obtain entry of the Consent Judgment, will not seek to appeal such entry, will not seek to modify the Consent Judgment and will not take any action, directly or indirectly, which might prevent or delay the Consent Judgment from becoming final.

B. The parties agree that this Agreement and the Consent Judgment contain their entire agreement and understanding. There are no additional promises or terms of the agreement other than those so described herein. This Agreement shall not be modified except in writing signed by each of the parties hereto or by their authorized representatives.

C. If the Court declines to sign and enter the Consent Judgment or if the Consent Judgment is modified, reversed or set aside for any reason whatsoever, other than pursuant to paragraph IX of the Consent Judgment, and such court's order becomes final and is not subject to further appeal, then the following shall occur simultaneously:

(1) this entire Agreement shall be completely rescinded and shall be deemed void ab initio, and of no force or effect, without prejudice to the claims, defenses or rights of the Parties;

(2) all of the State's claims against Defendant manufacturers and all of Defendant manufacturers' answers and defenses thereto shall be immediately reinstated in the Action, as if this Agreement had never been entered;

(3) the covenants and releases referred to in paragraphs 3 and 4 above shall be deemed null and void and of no force and effect; and

(4) Defendant manufacturers shall have no obligation to deliver the payment of money or product as stated in Section III of this Agreement or any other sum of money or product to the State.

D. Prior to or simultaneously with the filing of the Consent Judgment noted in paragraph II.A., above, the State will file a separate Consent Judgment which fully resolves and settles all claims between the State and the American Academy of Pediatrics in this action ("the AAP Consent Judgment"). If, for whatever reason, the AAP Consent Judgment does not become final, any party hereto can, with five (5) days notice to the other parties, rescind this Agreement.

E. The State will not name the Defendant manufacturers as parties in any action taken by the State which seeks to enforce, interpret or implement the AAP Consent Judgment.

### III.

#### PAYMENT

A. Within ten days of the date of the Consent Judgment being signed by the Court, each Defendant manufacturer shall pay TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) to the Office of the Texas Attorney General, for its investigative costs and attorneys' fees.

B. In addition to the payment required in paragraph III. A., above, defendants Abbott Laboratories and Ross Products Division shall deliver, free of charge, products manufactured and distributed by them and listed on Exhibit A (which is attached hereto and incorporated herein for all purposes) having a wholesale price (as defined in D.1., below) of at least FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00).

C. In addition to the payment required in paragraph III. A., above, defendants Bristol-Myers Squibb Company, and Mead Johnson & Company, including Mead Johnson Nutritional group, shall deliver, free of charge, products manufactured and distributed by them and listed on Exhibit B (which is attached hereto and incorporated herein for all purposes) having

a wholesale price (as defined in D.1., below) of at least FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00).

D. All deliveries of product referred to in paragraphs III.B. and C, above, shall be made in accordance with written orders provided by the Texas Department of Health ("TDH"). The following terms and conditions shall govern all such product orders:

(1) The value of each order will be defined by the published wholesale price as of September 1, 1995, for the volume of the order placed.

(2) Each order shall be made in writing at least thirty (30) days prior to the requested delivery date, shall be directed to, respectively, the Ross Products Division of Abbott Laboratories or Mead Johnson & Company; and shall include only products from Exhibit A or B which have not been discontinued at the time of the order;

(3) Each order shall total at least sixty (60) cases of products to be delivered to any one location;

(4) Each order to Ross Products Division of Abbott Laboratories shall consist of any combination of products listed on Exhibit A as solely determined by TDH. Each order to Mead Johnson & Company shall consist of any combination of products listed on Exhibit B as solely determined by TDH;

(5) Each order shall specify delivery to the TDH office in one or more of the following Texas cities: Lubbock, Arlington, Tyler, Houston, Temple, San Antonio, El Paso, Harlingen, Corpus Christi and Midland. Each separate delivery site shall be subject to the 60 case minimum in (2), above; and

(6) All product provided shall be selected for shipment to TDH on the same basis as is product shipped to defendant manufacturers' other accounts and shall have an expiration date that is comparable to expiration dates on the same product shipped to the defendant manufacturers' other accounts. Product may be labeled "hot to be resold". Except as otherwise stated herein, all product to be provided shall be merchantable as that term is defined in §2.314 of the Uniform Commercial Code.

E. The payment of cash and product as provided in paragraphs III. A, B and C, above, shall constitute full payment, consideration, and accord and satisfaction for the State's release and discharge of claims as outlined in paragraph IV, below.

V.

RELEASE AND DISCHARGE

A. Except as provided in paragraph V, E., below, the State, and all of its respective officers, officials, agents, employees, predecessors, successors, departments, divisions, sections, agencies, affiliates and representatives, including the Texas WIC Program, do hereby forever release, discharge, and covenant not to sue Defendant manufacturers and their past, present or future officers, directors, agents, employees, attorneys, affiliates, predecessors, shareholders, subsidiaries, divisions, successors, assigns, indemnities and legal representatives for any and all present or future claims, lawsuits, demands, administrative or judicial proceedings, or causes of action, known or unknown, commencing prior to the date of this Agreement, arising out of or relating in any way to the pricing and marketing of infant formula, or arising out of or related to any of the facts alleged in the State's Fourth Amended Original Petition and prior petitions in the Action, whether based on state antitrust laws, state common law fraud or civil conspiracy laws, or any other laws (all of the above collectively hereinafter the "Claims").

B. Defendant manufacturers and all of their respective officers, directors, agents, employees, attorneys, affiliates, predecessors, shareholders, subsidiaries, divisions, successors, assigns, indemnities and legal representatives, in consideration of the State's release, do hereby forever release, discharge, and covenant not to sue the State, and all of its respective officers, officials, agents, employees, predecessors, successors, departments, divisions, sections, agencies, affiliates and representatives, including the Texas WIC Program, for any and all present or future claims, lawsuits, demands, administrative or judicial proceedings, or causes of action, known or unknown, commencing prior to the date of this Agreement, arising out of or relating in any way to the State's bringing of the Action, or arising out of or related to any of the facts alleged in the State's Fourth Amended Original Petition and prior petitions in the Action.



VI.

MISCELLANEOUS PROVISIONS

A. This Agreement (i) shall not be deemed or construed to be an admission by any party of any fact or matter, (ii) does not constitute any evidence against or admission of liability by Defendant manufacturers with respect to any claim that was or could have been asserted against Defendant manufacturers by the State, and (iii) may not be used as evidence or in any other way in this Action.

B. Except as provided in paragraph III. A., above, the State shall pay its own costs and expenses, including attorneys' fees, and Defendant manufacturers shall pay their own respective costs and expenses, including attorneys' fees.

C. It is expressly understood that the terms stated in this Agreement are contractual and not merely recitals.

D. This Agreement may be executed in counterparts by the Parties.

E. The Court shall retain jurisdiction over the interpretation, effectuation, implementation and enforcement of this Agreement. This Agreement shall be construed in accordance with and governed by the laws of Texas.

F. This Agreement shall become effective upon its execution by all of the undersigned and cannot be amended or modified without the agreement in writing of all the undersigned.

G. The parties expressly warrant that they have the authority to settle claims with the releases and covenants reflected in this Agreement, and that such releases and covenants are valid and enforceable.

H. The undersigned represent that they are fully authorized to enter into this Agreement on behalf of the respective Parties.

I. Nothing contained in this Agreement is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

J. The terms of this Agreement are public and may be discussed by the parties. Initial disclosure, however, will be by the Office of the Texas Attorney General.

BRISTOL-MYERS SQUIBB COMPANY and  
MEAD JOHNSON & COMPANY

By: Lawrence A. Levin

Title: Vice President, Senior Counsel

Date: November 6, 1995

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Date: 11-10-95

ATTORNEYS FOR DEFENDANT BRISTOL-  
MYERS SQUIBB COMPANY and MEAD  
JOHNSON & COMPANY

**ABBOTT LABORATORIES and ROSS  
PRODUCTS DIVISION**

By: *J. M. de la*

Title: Secretary and General Counsel

Date: November 10, 1995

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(512) 340-4598 FAX**

By: *B. S. Greig*

**BRIAN S. GREIG  
State Bar No. 2016700**

Date: *November 15, 1995*

**ATTORNEYS FOR ABBOTT LABORATORIES and  
ROSS PRODUCTS DIVISION**

OFFICE OF ATTORNEY GENERAL

DAN MORALES  
Attorney General of Texas

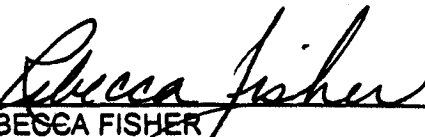
JORGE VEGA  
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THOMAS P. PERKINS, JR.  
Assistant Attorney General  
Chief, Consumer Protection Division

MARK TOBEY  
Assistant Attorney General  
Deputy Chief for Antitrust

Date: 11-15-95

By:   
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ATTORNEYS FOR PLAINTIFF  
THE STATE OF TEXAS

**EXHIBIT A**

**PRODUCTS AVAILABLE FROM BRISTOL-MYERS SQUIBB COMPANY, MEAD JOHNSON &  
COMPANY AND MEAD JOHNSON NUTRITIONAL GROUP**

**Enfamil w/iron, all forms**

**Prosobee, all forms**

**Nutramigen, all forms**

**Pregestimil**

**Lefenalac**

**Phenyl-Free**

**MCT Oil**

**Poly Vi Flor and Poly Vi Flor w/iron, 0.25, 0.5 and 1.0 mg**

**Tempra 1**

**Tempra 2**

**Tempra 3, 80 and 160 mg.**

## EXHIBIT B

### PRODUCTS AVAILABLE FROM ABBOTT LABORATORIES AND ROSS PRODUCTS DIVISION

Similac w/iron, all forms  
Similac 13  
Similac 20, Similac 20 w/iron  
Similac Special Care 20  
Similac 24, Similac 24 w/iron  
Similac Special Care 24 and Similac Special Care 24 w/iron  
Similac 27  
Similac Natural Care  
Similac PM 60/40  
Isomil, all forms  
Ensure, all flavors  
Ensure Plus, all flavors  
Ensure HN, all flavors  
Ensure PlusHN, all flavors  
Ensure w/Fiber, all flavors  
Ensure Pudding, all flavors  
Advera, flavors  
Pedialyte  
Alimentum  
Polycose, all forms  
PediaSure  
Pulmocare, all flavors  
Neocare, all forms