

ORIGINAL
FEDERAL TRADE COMMISSION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I. Standard for Admissible Evidence

This proceeding is governed by the EPCO Rules of Procedure and Evidence.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. Dr. Levy Is Qualified To Render A Reliable Opinion As To Whether Schering's \$60

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Do I have a performance evaluation in the pharmaceutical industry from your company?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Schering's agent Dr. Harnitz also has no direct contact with the ... 4-1

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[Redacted]

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[Redacted]

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[Redacted]

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[Redacted]

[Redacted]

.....
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.....

As Dr. Levy explained in his deposition, the 1.5 ULN measurements was a

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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pharmaceutical executive, concedes that he never even thought of conducting a net present value for his expert report in this matter.

.....
.....
.....¹⁹

Mr. McVey then testified that he has in his career used a net present value calculation.....

.....²⁰ He went on to agree with Dr. Levy's observation that a NPV calculation is particularly unhelpful.....

.....²¹ As Mr. McVey explained it:

.....²²

Niacor-SR, an unapproved product which faced potential regulatory approval obstacles. Based on his expertise and detailed review of the record, Dr. Levy concludes that

.....
Dr. Levy's expert report includes no accusations or suggestions that there was dishonesty in the Niacor-SR license and he plans to offer no opinions on witness credibility.²⁴

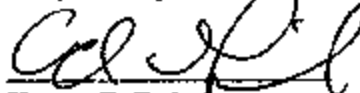
In its motion, respondents seem to argue that any expert opinion which contradicts testimony by fact witnesses is impermissible fact finding. This argument goes too far. It is

would have supported the defendant's story:

All defense evidence necessarily supported the defendant's "story"; that is its very purpose. . . . The [expert's] testimony certainly would have enhanced Rahm's "credibility" had she taken the stand. It could not be that simple. . . .

For these reasons, we request that the Court deny respondents' joint motion to exclude Dr. Levy.

Respectfully submitted,



Karen G. Bokal

Bradley S. Albert

Seth C. Silber

Andrew S. Ginsburg

Karan R. Singh

Counsel Supporting the Complaint

Dated: January 22, 2002

CERTIFICATE OF SERVICE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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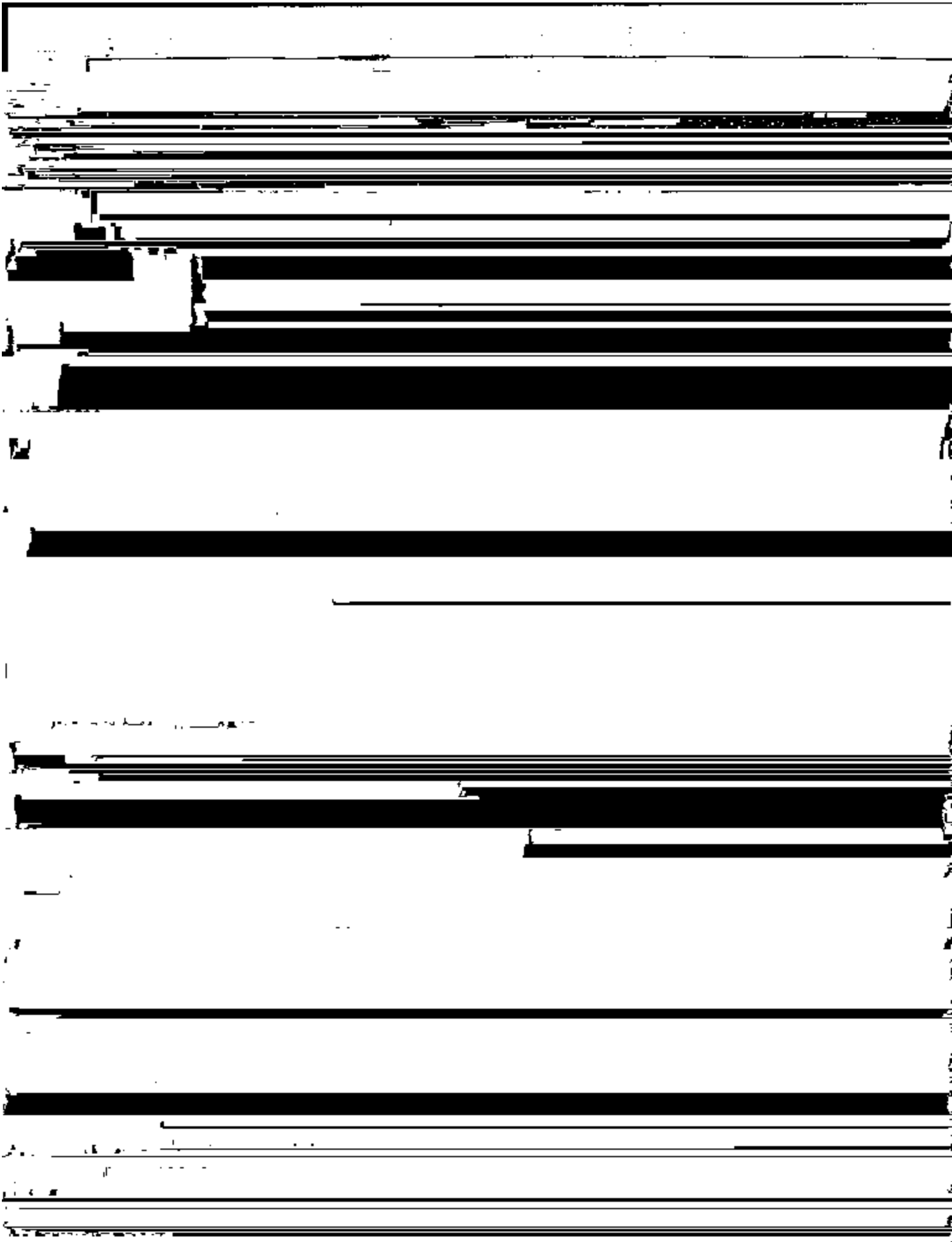
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ATTACHMENT A



Marketing programs for each product.

Conceived and implemented a

a "walking-around" style of management and leadership.

• Organized and orchestrated a highly successful recruiting effort to bring outstanding scientists to Abbott. Hired

[REDACTED]
-35 persons. Principal investigator on
three major research grants with total
funding. Direct control of over

[REDACTED]
MEDICAL LICENSES AND
[REDACTED]

[REDACTED]
non-T lymphocytes with specific cyto
toxicity, influenced by histocompatib

ATTACHMENT B

**United States of America
Federal Trade Commission**

**In the matter of
Schering-Plough Corporation
Upsher-Smith Laboratories, Inc.
and American Home Products Corporation**

Docket No. 9297

Expert Report

by

Nelson L. Levy, Ph.D., M.D.

August 13, 2001

**Restricted Confidential,
Attorney's Eyes Only**

The remaining pages of the expert report have been redacted.

ATTACHMENT C

In The Matter Of:

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

*NELSON L. LEVY, Ph.D., M.D.
November 20, 2001*

• *For The Record, Inc.*

Court Reporting and Video Services

The remaining pages of the transcript have been redacted.

ATTACHMENT D

**IN THE UNITED STATES OF AMERICA
BEFORE 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 9297

EXPERT REPORT OF WALTER BRATIC

October 8, 2001

Respectfully Submitted,

Walter Bratic

Vice Chairman and Managing Director
[REDACTED]

The remaining pages of the expert report have been redacted.

ATTACHMENT E

United States of America

1964-1965

1964-1965

1

The remaining pages of the expert report have been redacted.

ATTACHMENT F

United States of America

Federal Trade Commission

In the matter of

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The remaining pages of the expert report have been redacted.

ATTACHMENT G

IN THE UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)

Schering-Plough Corporation,)
a corporation,)

Usher-Smith Laboratories, Inc.)

American Home Products Corporation,)
a corporation)

The remaining pages of the expert report have been redacted.

ATTACHMENT H

In The Matter Of:

*SCHERING-PLOUGH & UPSHER-SMITH
MATTER NO. 9910256*

*KENNETH MCVEY
November 16, 2001*

CONFIDENTIAL

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ATTACHMENT I

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The remaining pages of the transcript have been redacted.