

•••BATES•WHITE•••

January 29, 2004

Mr. D. Scott Wise, Esq.  
Davis Polk & Wardwell  
450 Lexington Ave.  
New York, NY 10017

Re: In re: Pharm. Indus. AWP Lit., MDL No. 1456 (D. Mass.); Swanston v. TAP Pharm.  
Prods. Inc., et al, CV 2002-004988 (Super. Ct. Ariz.); State of Nevada v. Abbott  
Laboratories, Inc., et al., CV 02 00260 (2d Dist. Nev.)

Dear Scott:

This is to confirm our retention by the companies identified in Attachment A (the "Companies") in connection with the above-captioned actions and related matters. It is understood that our work will be directed by a steering committee formed by the Companies or by such persons as the steering committee may designate. Unless otherwise agreed in writing, our work will be deemed privileged and confidential information designed to assist the attorneys representing the Companies in actual or anticipated litigation.

It is understood that one or more of the Companies may want one or more persons from our firm to testify in litigation. If that happens, the terms of this letter shall apply to that engagement. It is understood, however, that our work will remain privileged and confidential unless it is considered by a witness in connection with the expert's testimony and is required to be produced. For that reason, all of our work will be marked "Privileged and Confidential: Prepared for Attorney in Connection with Litigation", and confidential information from the Companies will not be shown to a testifying expert unless it is necessary for that expert's testimony and it cannot otherwise be made available to the testifying expert in aggregated form. Furthermore, our work will not be disclosed to any person other than counsel for the Companies unless: (a) counsel for the Companies permit such disclosure; (b) a court or governmental agency orders such disclosure; or (c) the information is otherwise in the public domain.

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If our firm is retained to provide services for an adversary of any of the Companies in other litigation, the persons working on this engagement will not work on that engagement, and steps will be taken to ensure that confidential information relating to this engagement is not disclosed to the persons working on that engagement.

It is understood that our fees shall be paid from a joint expense fund established by the Companies to which the Companies are contributing in varying amounts. We will submit monthly statements to a person designated by the Companies and will look first to the joint expense fund to pay our fees. In the event that any portion of our fees remains unpaid, we will have the right to seek payment from the Companies in accordance with their proportionate share.

We are aware that some of the companies involved in the above-mentioned litigation have declined to participate in this retention. It is understood that we will not perform any services for those companies in connection with these matters unless the Companies agree in writing. It is further understood that if any of those companies should decide to become a participant in this retention, it shall be pursuant to such terms and conditions as the Companies establish.

Our fees and expenses will be billed to you in accordance with the billing and payment policies set forth in Attachment B. It is understood that we will work with the Companies to develop a work plan and try to keep our fees and expenses within the parameters of that plan. It is also understood that our fees and expenses are not contingent on the opinions and analyses we provide.

The present agreement to provide consulting services to the Companies is limited to this matter described above, for which you have engaged us. As you are aware we are a large consulting firm and we consult to many other companies and individuals. It is possible that some of our present or future clients will have disputes or other dealings with the Companies or their affiliates during the time that we are consulting to the Companies in the current matter. You agree that we may continue to consult to, or may undertake in the future to consult to, existing or new clients in any matter, including litigation and other legal proceeding, that is not substantially related to our work for the Companies in this matter, even if the interests of our clients in those other matters are directly adverse to the Companies, or any of their affiliates. Under such circumstances, the team working on the other matters will be separate from the team working on this matter. In particular, the separately constituted projects teams will not, under any circumstances, exchange any data or information that might compromise the strictures of confidentiality governing each project.

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Except in the case of gross negligence or intentional wrongdoing, the firm's liability shall be limited to fees received by the firm under this agreement. In no event shall the firm be liable for special, incidental, consequential, punitive or similar damages in connection with this engagement.

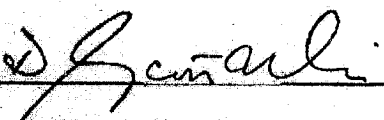
If the foregoing is acceptable to you, please indicate that by signing below.

Sincerely,



Eric M. Gaier, Ph.D.  
Partner

Agreed and accepted this 4th day of Feb. 2004.

By:   
D. Scott Wise, Esq.

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Attachment A

Full Share

**AstraZeneca** – Zeneca, Inc., AstraZeneca U.S., AstraZeneca Pharmaceuticals L.P., AstraZeneca, PLC

**The Aventis Group** – Aventis Pharmaceuticals, Inc., Hoechst Marion Roussel, Inc., Aventis Behring L.L.C.

**The BMS Group** – Bristol-Myers Squibb Co., Oncology Therapeutics Network Corp., Apothecon, Inc.

**The GSK Group** – GlaxoSmithKline, P.L.C., SmithKline Beecham Corporation, GlaxoWellcome, Inc.

**The Johnson & Johnson Group** – Johnson & Johnson, Centocor, Inc., Janssen Pharmaceutica Products, LP, McNeil-PPC, Inc., Ortho Biotech

**Amgen Inc. and Immunex Corporation**

**Hoffman-LaRoche, Inc.**

**The Schering-Plough Group** – Schering-Plough Corporation, Warrick Pharmaceuticals Corporation

Half Share

**Bayer** – Bayer Corporation, Bayer AG

**The Boehringer Group** – Boehringer Ingelheim Corp., Ben Venue Laboratories, Inc., Bedford Laboratories

**Braun** – B. Braun of America, Inc., B. Braun Melsunger Aktiengesellschaft, McGaw, Inc., B. Braun McGaw

**The Fujisawa Group** – Fujisawa Healthcare, Inc., Fujisawa USA, Inc.

**Novartis Pharmaceuticals Corporation**

**The Pharmacia Group** – Pharmacia Corporation, Pharmacia & Upjohn, Inc.

**The Sicor Group** – Sicor, Inc., Gensia, Inc., Gensia Sicor Pharmaceuticals, Inc.

**Watson Pharmaceuticals, Inc.**

**Wyeth Pharmaceuticals**

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Quarter Share

Merck & Co., Inc.

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**Attachment B**

Our fees are based upon the time actually spent by each assigned staff member at their standard billing rate, on an hourly basis. Our current rates by staff classification range from \$125 per hour for Project Assistants to \$660 per hour for our most senior economists. Rates are adjusted at least annually to reflect changes. Furthermore, rates of individuals are adjusted based on promotion to more senior levels within our organizations. In addition to the professional fees, our bills will include reasonable out of pocket expenses, such as travel and case-specific materials that we incur on your behalf. We will send invoices monthly that reflect our professional fees and expenses. Invoices will be due upon presentation. In addition, our firm's policies require that all outstanding invoices be paid prior to our giving deposition or courtroom testimony.

Our project team will be led by Eric Gaier and will include other professional and administrative staff resources as required. Dr. Gaier's current billing rate is \$450 per hour. It may be necessary for us to assign additional staff to this project in order to match properly experience and training with the project's requirements. Our hourly billing rates are summarized below.

**Table 1. Bates White Professional Rates**

<b>Position</b>	<b>Hourly Rate</b>
Sr. Partner	\$500 - \$660
Partner	\$400 - \$500
Principal	\$300 - \$400
Manager	\$250 - \$300
Sr. Consultant	\$200 - \$250
Consultant	\$150 - \$200
Project Assistant	\$125