

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: AVANDIA MARKETING, SALES
PRACTICES AND PRODUCTS LIABILITY
LITIGATION

MDL No. 1871

THIS DOCUMENT RELATES TO:

Norma Russell, et. al,
Dorothy Tuley, et. al,
Stephanie Woods, et al,

**ORDER ESTABLISHING
QUALIFIED SETTLEMENT
FUND AND APPOINTING FUND
ADMINISTRATOR AND
TRUSTEE**

Case Nos.

2:08-cv-03053-CMR
2:08-cv-02256-CMR
2:08-cv-01578-CMR

Plaintiffs,

v.

SMITHKLINE BEECHAM CORPORATION d/b/a
GLAXOSMITHKLINE,

Defendant.

Upon Stipulation (attached) between Freese & Goss, PLLC (“Freese & Goss”), on behalf of the captioned plaintiffs and similarly situated Avandia-related claimants who are represented by Freese & Goss (“Claimants”), and defendant, GLAXOSMITHKLINE LLC, formerly known as SMITHKLINE BEECHAM CORPORATION d/b/a GLAXOSMITHKLINE) (“GSK”), and for good cause shown, this Court hereby Orders as follows:

1. The Freese & Goss Avandia Settlement Fund (the “Fund”) shall be established as a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1 and pursuant to this Court's subject matter jurisdiction under Treas. Reg. Section 1.468B-1(c)(1). All settlements reached by and between Claimants and GSK shall be paid into the Fund.

2. Tim K. Goss, a principal with Freese & Goss, is appointed as Fund Administrator and Trustee (the "Fund Administrator") pursuant to the terms, conditions, indemnification, and restrictions of the Stipulation to Establish Qualified Settlement Fund and Appoint Fund Administrator and Trustee (the "Stipulation"), and the Fund Administrator is given the authority to conduct any and all activities necessary to administer the Fund.

3. The Fund shall be held at Whitney National Bank, a financial institution doing business in including Alabama, Florida, Louisiana, Mississippi, and Texas (the "Bank"), and said financial institution shall be responsible for any and all investment-related decisions, following the Fund Administrator's investment policy for fiduciaries, which is based on safety of principal, no bank balance sheet exposure and zero sweep accounts for distributions to Claimants once authorized. The Bank shall not make any distributions of income or principal from the Fund except pursuant to joint instruction by GSK, or its counsel, and Freese & Goss. No other person or entity is permitted to authorize or make any withdrawals from the Fund.

4. The Fund, by and through the Fund Administrator, is authorized to enter into Fund Agreements with Claimants, including any entity asserting a claim of subrogation, which may permit periodic payments in a manner prescribed and approved by this Court.

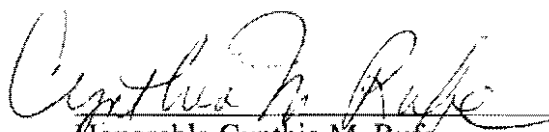
5. The Fund, by and through the Fund Administrator, is authorized to effect qualified assignments of any resulting structured settlement liability within the meaning of Section 130(c) of the Internal Revenue Code to the qualified assignee.

6. The Fund Administrator is authorized to distribute attorneys' fees and litigation expenses to counsel, consistent with existing contingency fee contracts and including the use of settlements with periodic payments for the benefit and convenience of the Claimants.

7. The Fund Administrator is authorized, upon final distribution of all monies paid into the Fund, to take appropriate steps to wind down the Fund and thereafter the Fund Administrator is discharged from any further responsibility with respect to the Fund.

IT IS SO ORDERED.

SIGNED this 17th day of November, 2010


Honorable Cynthia M. Rufe
United States District Judge

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PRACTICES AND PRODUCTS LIABILITY
LITIGATION

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**STIPULATION TO ESTABLISH
QUALIFIED SETTLEMENT
FUND AND APPOINT FUND
ADMINISTRATOR AND
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Plaintiffs,

v.

SMITHKLINE BEECHAM CORPORATION d/b/a
GLAXOSMITHKLINE,

Defendant.

IT IS HEREBY STIPULATED AND AGREED, by and between Freese & Goss, PLLC (“Freese & Goss”), on behalf of the captioned plaintiffs and similarly situated Avandia-related claimants who are represented by Freese & Goss (“Claimants”), and defendant, GLAXOSMITHKLINE LLC, formerly known as SMITHKLINE BEECHAM CORPORATION d/b/a GLAXOSMITHKLINE) (“GSK”), that:

1. Claimants are individuals represented by Freese & Goss who are seeking damages on account of certain acts and events as more particularly described in the Master Complaint concerning the *IN RE: AVANDIA MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION*.

2. GSK is alleged to be liable for the Claimants’ bodily injuries.

3. Freese & Goss and GSK have recently entered into a Master Settlement Agreement (the "Master Settlement Agreement") to settle Avandia claims, at a time when the exact allocation among and distribution to the Claimants cannot be finalized. Hence, in the best interest of all parties, a fund - which will be identified as the "Freese & Goss Avandia Settlement Fund" (the "Fund") - should be established to resolve or satisfy these claims, while allowing for the allocation and final disbursement of monies to be finalized.

4. The Fund shall be a Qualified Settlement Fund ("QSF") as described in Treas. Reg. Section 1.468B-1, established by order of this Court, and the Fund shall remain subject to the continuing jurisdiction of this Court.

5. This Court has jurisdiction over this matter under Treas. Reg. Section 1.468B-1(c)(1), which states in relevant part that a QSF "is established pursuant to an order of, or is approved by, the United States, any state (including the District of Columbia), territory, possession, or political subdivision thereof, or any agency or instrumentality (including a court of law) . . . and is subject to the continuing jurisdiction of that governmental authority."

6. Given valid concerns about adding unreasonable delay or expense to the transfer of settlement monies to clients, a QSF in this matter will: (1) facilitate placement of a structured settlement annuity without requiring the signature / participation of GSK; (2) permit resolution of claims by private companies or government agencies that may have a reimbursement right or lien against a Claimant's settlement amount; (3) "fast track" the payment of settlement proceeds

to those Claimants who determine quickly that they are not interested in any form-of-settlement options besides a lump sum award¹; and (4) minimize expenses.

7. Tim K. Goss, a principal with Freese & Goss shall be appointed as the “Fund Administrator” and “Trustee” (the “Fund Administrator”). Mr. Goss submits personally to the jurisdiction of this Court. Upon Mr. Goss’s inability or unwillingness to act, or bankruptcy, his appointment shall terminate, and Freese & Goss and GSK will seek court approval of their nominated successor Fund Administrator.

8. Until such time that Claimants are entitled to settlement monies under the Master Settlement Agreement, no settlement monies shall be set apart for any Claimant, or otherwise made available so that he or she may draw upon or otherwise control said settlement monies.

9. The Fund, by and through the Fund Administrator, shall only make payments to the Claimants and any entities asserting a claim of subrogation according to the terms of the Master Settlement Agreement.

10. The Fund, by and through the Fund Administrator, may purchase and assign any structured settlements created under any Release Agreements. Any structured settlement shall be issued by a life insurance company that is rated A+ or better by A.M. Best Company.²

11. The claims made against GSK are made on account of physical bodily injury and arise out of alleged liability in tort or violation of law. Claimants shall agree in writing to a

¹ If the “form-of-settlement” component of the client-counseling model is employed early, lawyers should be able to identify these clients prior to settlement and shape the 468B motion practice to allow the 468B Administrator to transfer funds to these “fast track” clients as soon as the defendant tenders the settlement proceeds to the 468B.

² Structured Settlement Payments are assigned to a qualified assignee by entering into qualified assignments of such structured settlement payments within the meaning of Section 130(c) of the Internal Revenue Code. The qualified assignee shall, respecting each person who is to receive periodic payments under a settlement agreement, purchase one or more qualified funding assets within the meaning of Section 130(d) of the Internal Revenue Code to fund any structured settlement payments assigned to the qualified assignee.

discharge of the Fund and the Fund Administrator's liabilities in the making of any structured settlement payments, also known as periodic payments, by executing, along with the Fund, any necessary documents required or related to the discharge of those liabilities.

12. The settlement monies are the sole property of the Fund. No portion of such monies shall be made available to Claimants except as specifically set forth in the Master Settlement Agreement. Until such time as monies are distributed, Claimants shall not possess any rights to demand or receive any portion of the monies or the escrowed monies or to mortgage, pledge, or encumber the same in any manner. To the extent possible, the terms of this Stipulation shall be construed so as to prevent Claimants from being in constructive receipt, as determined under federal income tax principles, of any amounts held by the Fund.

13. The Fund Administrator shall be indemnified and held harmless by Claimants from any claims made by any alleged lien holder, or other person or entity that attempts to assert a right of payment, reimbursement or garnishment against the Fund. Should the Fund Administrator be named as a party to, or threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding of any kind, whether civil, administrative or arbitral, and whether brought by or against or otherwise involving the Fund, by reason of the Fund Administrator having served in any capacity on behalf of the Fund, the Fund Administrator shall be indemnified and held harmless by Claimants against reasonable expenses, costs and fees (including attorney fees), judgment, awards, costs, amounts paid in settlement, and liabilities of all kinds incurred by the Fund Administrator in connection with or resulting from such actual or threatened action, suit or proceeding; except to the extent that it is finally determined by the

Court that the Fund Administrator was grossly negligent or acted with willful misconduct in connection with the administration of the Fund.

14. No bond shall be required, provided that all monies received by the Fund, which includes all principal and interest earned thereon, shall be deposited in an account comprised of (i) United States Agency, Government Sponsored Enterprises (GSEs) or Treasury securities or obligations (or a mutual fund invested solely in such instruments) and (ii) cash equivalent securities. The Fund shall be held at Whitney National Bank, a financial institution doing business in including Alabama, Florida, Louisiana, Mississippi, and Texas, according to the above terms and conditions, and said financial institution shall be responsible for any and all investment related decisions, pursuant to these terms and conditions, following the Fund Administrator's investment policy for fiduciaries, which is based on safety of principal, no bank balance sheet exposure and zero sweep accounts for distributions to Claimants once authorized. Notwithstanding the foregoing, the Bank shall not be allowed to make distributions of any income or principal from the Fund except pursuant to joint instruction by GSK, or its undersigned counsel, and Freese & Goss.

15. The Fund Administrator shall be authorized to distribute all attorney fees and litigation expenses to counsel for Claimants, consistent with existing contingency fee contracts and, to the extent required by law, upon Court approval.

16. All taxes on the income of the Fund and expenses and costs incurred in connection with the taxation of the Fund (including, without limitation, the expenses of tax attorneys and accountants) shall be paid out of the Fund, shall be considered to be a cost of

administration of the settlement, and shall be paid by the Fund Administrator pursuant to joint instruction by GSK, or its undersigned counsel, and Freese & Goss.

17. Upon request, the Bank will prepare and deliver Fund Statements (“Statements”) to Freese & Goss, GSK and/or this Court. The Statements shall include, without limitation, a statement of receipts, investment earnings, and disbursements. The Bank shall provide the Statement no later than 10 business days following the request.

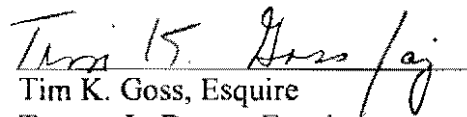
18. The Bank shall have the right to rely upon any affidavit, certificate, letter, notice, electronic mail or other document believed by the Bank to be genuine and sufficient, and upon any other evidence believed by the Bank, in its reasonable judgment, to be genuine and sufficient, which may be provided to the Bank by GSK or Freese & Goss.

19. Upon final distribution of all monies paid into the Fund, the Fund Administrator shall take appropriate steps to wind down the Fund and thereafter be discharged from any further responsibility with respect to the Fund.

20. The Fund Administrator will obtain a Federal Taxpayer Identification Number for the Fund upon the execution of the Order by the Court establishing the Fund.

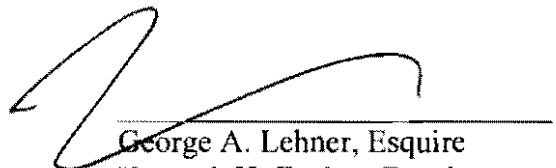
The parties respectfully request that the Court (1) consent to take continuing jurisdiction over the Fund pursuant to Treasury Regulation Section 1.468B-1(c)(1) and (2) make an Order (the proposed version of which is filed concurrently herewith), which approves the establishment of the QSF and appoints Tim Goss, principal of Freese & Goss, as Fund Administrator and Trustee.

Dated: 10/18, 2010



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