IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Document 637

IN RE K-DUR ANTITRUST LITIGATION)	
)	Civil Action No. 01-1652 (JAG)
This Document Relates To:)	(Consolidated Cases)
All Actions)	MDL Docket No. 1419
)	

ORDER

The Special Master having considered the Direct Purchaser Plaintiffs' Motion for Class Certification, the briefs filed by all parties in support of and in opposition to the Motion, as well as the oral argument of counsel, for the reasons set forth in the foregoing Report and Recommendation:

IT IS HEREBY ORDERED, this 14th day of April, 2008, that:

- (1) The Direct Purchaser Plaintiffs' Motion for Class Certification is hereby **GRANTED**;
- Pursuant to Fed. R. Civ.P. 23(c)(1)(B), the following Class is certified pursuant to (2) Fed. R. Civ. P. 23(a) and (b)(3):

All persons or entities who have purchased K-Dur 20 directly from Schering at any time during the period November 20, 1998, through September 1, 2001.

Excluded from the proposed class shall be:

Defendants and their officers, directors, management and employees, subsidiaries and affiliates, as well as federal government entities. Also excluded are persons or entities who have not purchased generic versions of K-Dur 20 after the introduction of generic versions of K-Dur 20.

- Pursuant to Fed. R. Civ. P. 23(c)(1)(B), the Special Master identifies the (3) following Class claims and issues:
- (a) Whether Defendants engaged in a contract, combination or conspiracy to fix, raise, maintain or stabilize prices of K-Dur 20;
- Whether the alleged contract, combination or conspiracy was an (b) unreasonable restraint on trade;
- Whether the alleged contract, combination or conspiracy affected (c) interstate commerce;
- Whether Defendants engaged in conduct that violated Section 1 of the (d) Sherman Act;
- (e) Whether the alleged conduct of Defendants caused injury to the business or property of Plaintiff Louisiana Wholesale Drug Co. ("LWD") and the Class;
 - The appropriate measure of damages sustained by LWD and the Class. (f)
- (4) Pursuant to Fed. R. Civ. P. 23(c)(1)(B), the following law firms are appointed as co-lead Class Counsel: Berger & Montague, P.C. and Garwin, Gerstein & Fisher, LLP
- By May 15, 2008, the Parties shall jointly submit to the Special Master a Class (5) notice program and proposed forms of notice to the Class. If the Parties are unable to agree on the form of notice to the class, the Parties shall submit to the Special Master and serve upon all counsel proposed notice programs and forms of notice, accompanied by a memorandum in support of that Party's position. Each Party shall submit to the Special Master and serve upon all counsel its response to the other's proposed notice programs and forms of notice no later than May 30, 2008. Following the receipt of the parties' submissions, the Special Master shall

schedule argument at a mutually convenient time to resolve any disputes regarding the notice to the class.

ENTERED this 14th day of April, 2008

s/ Stephen M. Orlofsky STEPHEN M. ORLOFSKY SPECIAL MASTER