CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS
RESEARCH & INVESTIGATIONS
42 BROADWAY – 9TH FLOOR
NEW YORK, NEW YORK 10004

SUBPOENA DUCES TECUM

To: MILES D. WHITE, CHAIRMAN AND CEO
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
ABBOTT PARK, ILLINOIS 60064-3500

c/o

C T CORPORATION SYSTEM
208 SO. LASALLE ST., SUITE 814
CHICAGO, ILLINOIS 60604

By virtue of the authority conferred upon the Commissioner of the Department of Consumer Affairs of the City of New York (the "Department") by Section 2203(f) of Chapter 64 of the New York City Charter;

You are hereby commanded to appear and produce all documents and other tangible evidence requested in the attached Schedule "A" to the Department at 42 Broadway, 9th Floor, New York, New York 10004-1716, on **July 9, 2015, at 9:00 a.m.** and at any recessed or adjourned date thereof, to be inspected, examined, and audited in the matter of an investigation now being conducted by the Department into potential deceptive advertising and marketing practices, in violation of the New York City Administrative Code Sections 20-700 et seq. Your response to this Subpoena, including the requested documents, may be submitted by mail provided the documents and Verifications are received by the Subpoena return date of **July 9, 2015**.

If you fail to comply with this Subpoena on the date, time and place stated above, or at an agreed upon adjourned date and time, action may be taken against you in the Supreme Court of the State of New York, and in any other appropriate forum, to compel compliance and to impose civil penalties and sanctions.

Counsel may accompany you.

Witness my hand, this 9th day of June 2015.

JULIE MENIN
Commissioner
New York City Department of Consumer Affairs

BY: _____

Tamala T. Boyd
Associate General Counsel
New York City Department of Consumer Affairs
42 Broadway – 9th Floor
Telephone: (212) 436-0201; Fax: (917) 373-8662
Email: tboyd@dca.nyc.gov

SCHEDULE A

Subpoena Dated June 9, 2015
Served Upon: Abbott Laboratories

DEFINITIONS

1. "Advertisement" and "advertisements" means all promotional and marketing materials, including but not limited to: product labels, coupons, mailings, postcards, flyers, billboards, banners, newspapers, magazines, circulars, pamphlets, catalogues, in-store and out-of-store displays and signs, websites, letters, and handbills published, mailed, distributed or directed to New York City consumers or displayed in New York City.

2. "All" means each and every.

3. "And" and "or" must be construed either disjunctively or conjunctively as necessary in order to bring within the scope of the Subpoena all responses that might otherwise be construed to be outside of its scope.

4. "Any" means each and every, any one and all.

5. "Communication" and "communications" mean any alert, contact, conversation, correspondence, discussion, face-to-face meeting, notice, representation, statement, telephone call, utterance, or other form of communicating information, whether oral or written.

6. "Document" and "documents" mean any writing, electronic or graphic material, or any copy of any writing, electronic or graphic material, however produced or reproduced, of any kind and description in your actual or constructive possession, custody, care or control of which you have knowledge, whether or not prepared by you, which pertains or contains information pertaining directly or indirectly, in whole or in part, to any of the subjects inquired about in any specification and includes but is not limited to, the original and any non-identical copies of any: correspondence, paper, book, pamphlet, periodical, photograph, object, microfilm or microfiche, note or sound recording or other memorial of any type of oral communication, meeting or conference, memoranda, records, reports, studies, written forecast, projection, analysis or estimate, desk or other calendars, appointment book, diary, data sheets, data processing cards, disks, data processing files, tapes or other data compilations from which information can be obtained or translated, computer printouts, computer readable materials, work papers, charts, graphs, news clippings, press releases, newspaper accounts, transcript of television or radio broadcasts. Two or more copies of a document bearing divergent handwritten or other notations are separate documents for this purpose, as are all drafts of any document.

Also included are voice recordings, reproductions and film impressions of any of the aforementioned writings, as well as copies of documents that are not identical duplicates of the originals and copies of documents of which the originals are not in your possession, custody or control. In case originals or original non-identical copies are not available, "document" or "documents" shall include copies of originals or copies of non-identical copies, as the case may be. "Document" or "documents" shall also specifically include documents kept by individuals in their desks, at home or elsewhere.

7. "Documents sufficient to show" means the document or documents necessary and sufficient to provide all of the requested information in an intelligible and reasonably accessible format.

8. "Employee" means any person presently or formerly employed for hire including, but not limited to, independent contractors, any person who manages or oversees the work of another, and any person whose earnings are based in whole or in part on salary or commission for work performed.

9. "Identify," with respect to documents, means to give, to the extent known, the: (a) type of document; (b) general subject matter of the document; (c) date of the document; and (d) author(s), addressee(s), and recipient(s).

10. "Identify," with respect to persons, means to give, to the extent known, the person's: (a) full name; (b) present or last known address; (c) phone number; and, when referring to a natural person, additionally, his or her: (d) present or last known place of employment; (e) title(s) or position(s) held within your organization, if any; and (f) dates of employment.

11. "Including" means including without limitation. "Including" does not restrict or limit the scope of a particular request in any way; rather it provides an example of a responsive document or category of responsive documents.

12. "Product" means all infant formula in your Similac and Isomil family of brands, including various forms of prepared infant formula and follow-on formula, including Similac Advance, Similac Advance with EarlyShield, Similac, Similac with Iron, Similac Sensitive, Similac Sensitive RS, Similac Go&Grow, Similac NeoSure, Similac Organic, Similac Special Care, Similac Total Comfort, Isomil Advance, Isomil, Alimentum.

13. "Regarding" and "relating" mean directly or indirectly, concerning, constituting, describing, discussing, identifying, mentioning, referring, refuting or supporting, pertaining to or being connected with, a stated subject matter.

14. "You" and "your" mean the entity to which this Subpoena is directed.

INSTRUCTIONS

1. Relevant Time Period. The period covered by this Subpoena is from January 1, 2014 until the date of your response.

2. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the documents and information requested. You must produce all documents located, and information learned or acquired, at any time after your response is due.

3. Manner of Production. You must organize all documents and information produced into separate categories identified by the paragraph number of the request to which such documents are responsive. To the extent possible, documents should be Bates-stamped, or otherwise sequentially numbered, and should be produced in scanned or electronic format. If you submit documents electronically or by mail, you do not need to appear at the Department in response to this Subpoena.

4. Production of Electronic Records. Produce electronic records as follows:

(a) Electronic records must be copied onto one or more write-once CDs or DVDs with all electronic folder information intact (i.e., CD-R or DVD-R, not CD-RW or DVD-RW).

(b) The CDs or DVDs and their containers or covers must be dated and labeled with your name, Department license number and a simple name for the disc (e.g., "CD #1"). Do not affix any labels to discs. Instead, write the required information on the disc using a soft marker.

(c) Submit electronic files in the format in which you, or a third party on your behalf, maintain the electronic files.

5. Preservation of Relevant Documents and Information; Spoliation. You are legally obligated to preserve documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, must be construed in any way to eliminate, narrow, qualify or otherwise diminish your preservation obligations.

6. Possession, Custody and Control. This Subpoena calls for all responsive documents or information in your possession, custody and control. This includes, without limitation, documents or information possessed or held by any of your present or former officers, directors, employees, agents, accountants, consultants, representatives, divisions, affiliates, subsidiaries or persons from whom you could request documents or information. If documents or information responsive to a request in the Subpoena are in your control, but not in your possession or custody, you must promptly identify the person with possession or custody. Each request seeks the production of all responsive documents (including all attachments), in your possession, custody or control.

7. Documents No Longer in Your Possession. If any document requested in this Subpoena was formerly in your possession, custody or control but is no longer available, or no longer exists, you must submit an affidavit that: (a) describes in detail the nature of such document and its contents; (b) identifies the person(s) who prepared such document and its contents; (c) identifies all persons who have seen or had possession of such document; (d) specifies the date(s) on which such document was prepared, transmitted or received; (e) specifies the date(s) on which such document became unavailable; (f) specifies the reason why such document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the identity of the person(s) requesting and performing such destruction or transfer; and (g) identifies all persons with knowledge of any portion of the contents of the document.

8. No Documents Responsive to Subpoena Requests. If there are no documents responsive to any particular Subpoena request, you must state so in writing, identifying the paragraph number(s) of the Subpoena request concerned. Your response must include a signed, notarized copy of the verification attached to this Subpoena.

9. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each document must be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any document or other material indicating filing or other organization. Such production must include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no document. Physically attached documents must remain so attached in any production and electronic productions must include notations or information sufficient to indicate clearly such physical attachment.

10. Privilege and Privilege Placeholders. For each document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, you must insert one or more placeholder page(s) in the production. Documents withheld on the ground of privilege or other legal doctrine must be identified in an affidavit stating: (a) the name of the document withheld; (b) the type of document; (c) the date of the document; (d) the author(s) and recipient(s) of the document; (e) the general subject matter of the document; (f) the number of pages of the document; (g) a description of any attachments; and (h) the legal ground for withholding the document. If the legal ground for withholding the document is attorney-client privilege, you must indicate the name of the attorney(s) from whom you sought, or who provided, the legal advice that forms the basis of the privilege.

11. Objections. If the response to a Subpoena request is an objection, provide the basis of the objection. Your refusal to produce any document or your objection to any request in no way excuses you from timely production of all other documents requested in this Subpoena.

12. Verification. You must sign and notarize the Verification attached to this Subpoena and return it with your response. If you provide your response in the form of a CD or DVD, you must produce the signed and notarized Verification in PDF format.

13. Interpretation of this Subpoena. In construing these requests: (a) the use of feminine, masculine or neutral pronouns must not exclude other genders; (b) the singular must be construed to include the plural, and the plural must be construed to include the singular; and (c) the present tense must be construed to include the past tense, and the past tense must be construed to include the present tense. Any questions regarding the interpretation of this Subpoena must be resolved in favor of the broadest possible construction.

14. Questions about this Subpoena. If you have any questions, please contact: Ayanna Blake by email at ablake@dca.nyc.gov or by phone at (212) 436-0287.

SCHEDULE "A"

1. Documents sufficient to show your ownership and corporate structure including, but not limited to, organizational charts, articles of organization, by-laws and corporate filings.
2. Documents sufficient to identify the people responsible for securing the recommendation of the Product by physicians or other health care professionals in New York City and, as to each:
   a. Job title;
   b. Job responsibilities; and
   c. Qualifications and training.
3. Documents sufficient to identify all external agencies used by you to create marketing and advertising campaigns for the Product, directed to consumers, health care professionals and retailers located in New York City.
4. Documents relating to your advertisement and marketing of the Product, including, but not limited to the following:
   a. Copies of all advertisements that appeared or were broadcast in New York City via any medium;
   b. Documents sufficient to show the number of times each such advertisement appeared or was broadcast in New York City via any medium;
   c. Documents sufficient to show the names of all New York City publications containing any advertisement;
   d. Documents sufficient to show the dates that any advertisement appeared or was broadcast in New York City through any medium; and
   e. Invoices for each advertisement.
5. Documents relating to your labeling of the Product, including, but not limited to the following:
   a. Copies of all labels on Products distributed in New York City;
   b. Documents sufficient to show the retailers to whom Product was distributed; and
   c. Documents sufficient to show the dates of distribution of the Product in New York City.
6. Documents sufficient to identify the distribution center and distributors, whether owned by you or a third-party, which market and sell the Product to customers and to New York City institutions, wholesalers, retailers, health care facilities and government agencies.
7. Documents sufficient to show, or documents listing, all websites owned, financed, operated or maintained by you or on your behalf, which feature the Product.
8. Copies of all press releases related to the Product.
9. Documents sufficient to show the manner in which you obtain the names and contact information of consumers and healthcare professionals to whom you direct you marketing, advertising and/or sales efforts for the Product, including the source of such information, i.e., lead generators, social media, telemarketing efforts and surveys or studies.
10. All internal memoranda, training manuals, scripts, documents or writings of any kind which pertain to the standards, procedures, marketing tips or strategies employed by your Sales Force, Marketing Teams and any other persons responsible for advertising and marketing directed to consumers and healthcare professionals regarding the Product.

11. Documents sufficient to identify all New York City consumers to whom you have directed any marketing, advertising or sales efforts for the Product, including New York City consumers who registered with you for special promotions or programs, i.e., Similac Strong Moms.
12. Documents sufficient to identify all New York City hospitals and healthcare professionals to whom you directed any marketing, advertising or sales efforts for the Product.
13. All written materials disseminated by you or on your behalf to New York City consumers concerning the Product.
14. Documents sufficient to identify all New York City consumers who contacted you via Live Help or FeedingExpert.com.
15. Protocols, procedures, instructions and scripts utilized in response to consumer questions received via Live Help or FeedingExpert.com.
16. Documents sufficient to identify Similac FeedingExpert.com and Live Help staff and, as to each:
    a. Job title;
    b. Job responsibilities; and
    c. Qualifications and training.
17. All petitions, with supporting documentation, submitted by you to the United States Food and Drug Administration for Generally Recognized As Safe ("GRAS") status for any ingredient added to the Product over and above that already required by the Infant Formula Act of 1980, as amended ("Formula Act").
18. Documents sufficient to substantiate the following claims, statements or suggestions:
    a. "8 out of 10 moms who supplemented with formula agreed that it helped them continue to feed breast milk."
    b. "[P]rebiotics produce softer stools more like those of breastfed infants."
    c. Prebiotics contribute to "digestive health and helps provide a gentle introduction to formula."
    d. Similac is "the #1 brand fed in hospitals."
    e. Similac Stages "are designed to keep up with the changing needs of your baby's growth and development."
    f. Similac Advance Stage 1 offers "Complete Nutrition For Your Baby's 1st Year."
    g. "Similac Advance Stage 1 is designed to be closer than ever to breast milk."
    h. "Similac Advance Stage 2 is designed to support your baby's continued growth and development during this important time when solid foods are introduced."
    i. Similac Advance Stage 2 offers "complete nutrition . . . when feeding solids."
    j. OptiGRO "support[s] . . . brain and eye development."
    k. "Similac Sensitive Stage 1 [is] gentle nutrition designed to ease fussiness and gas due to lactose sensitivity."
    l. "Similac Sensitive Stage 1 [] provide[s] a strong start for your baby's developing digestive system."
    m. "Similac Sensitive Stage 2 [offers] complete nutrition for use when feeding solids."
    n. "Similac Sensitive Stage 2 helps reduce your baby's fussiness and gas due to lactose sensitivity."
    o. "Similac Total Comfort" helps with "persistent feeding issues."
    p. "Similac Soy Isomil" helps with "fussiness and gas."

q. "Similac For Spit-Up" is "clinically shown to reduce frequent spit-up by 54%" and can be used "for less frequent spit-up in healthy infants."
r. "Soy [] soothe[s] the tummy."
s. "Soy-based formulas . . . have been clinically shown to help reduce [] feeding based problems" and "no other soy-based formula has been studied more than Isomil."
t. Similac Soy Isomil is the "#1 Formula for Complete Soy Nutrition."
u. Similac Total Comfort's "partially broken down protein" helps with "easy digestion."
v. Similac Expert Care Alimentum is: "hypoallergenic," helps "food allergies and colic due to protein sensitivity."

19. All post-market studies done to support your claims about the Product mentioned in Request #18, above, and for each:
    a. Documents sufficient to identify all persons responsible for developing the studies; and
    b. Documents sufficient to show the dates of such studies.
20. All expert reports and/or clinical studies which support claims about the Product mentioned in Request #18, above, and for each:
    a. Documents sufficient to show the authors of such reports;
    b. The curriculum vitae and/or qualifications of such authors; and
    c. Documents sufficient to show the dates of such reports.
21. Documents sufficient to identify all litigation pending in any forum between you and a purchaser, consumer or user of the Product.
22. Copies of all complaints made against you concerning the Product, whether pending or resolved, from any source, including:
    a. Documents sufficient to identify the complainant;
    b. Documents provided by the complainant;
    c. Documents produced by you in response to the complaint; and
    d. Documents sufficient to show the disposition of any complaints.
23. Policies and procedures concerning your handling of complaints about the Product.
24. Policies and procedures relating to document retention.
25. Documents sufficient to show any and all investigations, administrative or court actions, whether local, state or federal, whether or not within the applicable time period, brought against you by any government agency or regulatory body related to the Product.

ABBOTT LABORATORIES VERIFICATION

This response to the Subpoena of the New York City Department of Consumer Affairs dated, June 9, 2015, including without limitation production of the requested documents, was prepared and assembled under my personal supervision from the records of Abbott Laboratories in accordance with the instructions and definitions set forth in such Subpoena and is complete and correct to the best of my knowledge and belief. The documents produced in response to this Subpoena are authentic, genuine and what they purport to be.

_____

(Signature)

_____

(Printed Name and Title)

Subscribed and sworn to before me this _____ day of _____, 2015.

_____

Notary Public