DEPARTMENT OF HEALTH & HUMAN SERVICES Public Health Service

Food and Drug Administration
Rockville, MD 20857

DATE: October 17, 2007

TO: Randall W. Lutter, Ph.D.
Deputy Commissioner for Policy
Food and Drug Administration

THROUGH: Vince Tolino /S/ 10/31/07
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

Michael F. Ortwerth, Ph.D. /S/ 11-8-07
Deputy Director, Advisory Committee Oversight and Management Staff
Office of Policy, Planning, and Preparedness

FROM: Igor Cerny, Pharm.D. /S/
Director, Advisors and Consultants Staff
Center for Drug Evaluation and Research

SUBJECT: 712(c)(2)(B) Conflict of Interest Waiver for Maha Hussain, M.D.

I am writing to request a waiver for Maha Hussain, M.D., a member of the Oncologic Drugs Advisory Committee, from the conflict of interest prohibitions of section 712(c)(2)(A) of the Federal Food, Drug, and Cosmetic Act. Waivers under section 712(c)(2)(B) may be granted by the appointing official where it is "necessary to afford the advisory committee essential expertise" and where the individual has made a disclosure to FDA of the financial interests at issue. We have determined that you are the appointing official for purposes of section712(c)(2)(B). Therefore, you have the authority to grant Maha Hussain, M.D. a waiver under section 712(c)(2)(B).

Section 712(c)(2)(A) prohibits Federal executive branch employees, including special Government employees, from participating in any particular matter in which the employee or an immediate family member has a financial interest that could be affected by the advice given to the FDA with respect to the matter. Because Maha Hussain, M.D. is a special Government employee, she is under a statutory obligation to refrain from participating in any deliberations that involve a particular matter having a direct and predictable effect on a financial interest attributable to her.

The function of the Oncologic Drugs Advisory Committee is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer, and to make appropriate recommendations to the Commissioner of Food and Drugs.

Dr. Hussain has been asked to participate in all official matters concerning supplemental BLA 125085/91, Avastin (bevacizumab), sponsored by Genentech, Inc., proposed indication, in combination with paclitaxel, for the treatment of patients who have not received chemotherapy for their locally recurrent or metastatic, HER2 negative breast cancer.

This matter is coming before the Oncologic Drugs Advisory Committee. This issue is a particular matter involving specific parties.

Dr. Hussain has advised the Food and Drug Administration (FDA) that she has financial interests which could potentially be affected by her participation in the matter described above. Dr. Hussain's ——— owns stock in ———, ———, ———, ———, ———, and ———. ——— is the sponsor of ———. ———, ———, ———, ———, and———, all make products that compete with Avastin.

In addition, Dr. Hussain is a consultant for ——— for an unrelated study. ——— is the sponsor of ———, a competing product to Avastin.

Lastly, Dr. Hussain is the Principle Investigator on a study of ——— for an unrelated indication, which is funded by ———. ——— is the sponsor of ——— and ———, competing products to Avastin.

As a member of the Oncologic Drugs Advisory Committee, Dr. Hussain could become involved in matters that could affect her financial interest. Under section 712(c)(2)(B), she is prohibited from participating in such matters. However, as noted above, you have the authority under section 712(c)(2)(B) to grant a waiver permitting Dr. Hussain to participate in such matters if necessary to afford these committees essential expertise.

For the following reasons, I believe that it would be appropriate for you to grant a waiver to Dr. Maha Hussain that would allow her to participate fully in the matter described because her voting participation is necessary to afford the committee essential expertise.

According to the Division of Oncologic Drug Products, the uniqueness of Dr. Hussain's qualifications justifies granting this waiver. Dr. Hussain's clinical research expertise and long-standing participation as an Oncologic Drugs Advisory Committee (ODAC) member and chair make her an invaluable resource to FDA for this important meeting. Dr. Hussain is an academic physician with a robust body of knowledge and experience in the design and conduct of clinical trials, having been involved in well-designed and well-executed clinical studies providing the best opportunity for the advancement of clinical research and its translation to the practice of evidence based medicine. Dr. Hussain is at the forefront of developments in clinical research and clinical trial design and this is relevant to her participation and advice as an understanding of the adequacy of clinical trial design will be essential to informing the discussion at this meeting.

Dr. Hussain is the current chair of the ODAC and has chaired the Committee meetings since 2006. She has participated as a voting member of the committee since 2004. In considering the issues involved with this application, it is paramount that the Committee chair be someone who is both

qualified and experienced to guide and advise the clinicians on ODAC as to the most scientifically valid interpretation of the study in question. The division strongly feels that Dr. Hussain is capable of delivering this guidance in the most qualified manner to provide balance in approach and ensure a sound scientific discussion. It is also important to have a range of expertise on the committee. I believe that participation by Dr. Hussain in the committee's deliberation will contribute to the diversity of opinions and expertise represented on the committee.

Moreover, the Federal Advisory Committee Act requires that committee memberships be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee. Also, the committee's intended purpose would be significantly impaired if the agency could not call upon experts who have become eminent in their fields, notwithstanding the financial interests and affiliations they may have acquired as a result of their demonstrated abilities.

Accordingly, I recommend that you grant Maha Hussain, M.D., a waiver that would allow her to participate in all official matters concerning supplemental BLA 125085/91, Avastin (bevacizumab), sponsored by Genentech, Inc., proposed indication, in combination with paclitaxel, for the treatment of patients who have not received chemotherapy for their locally recurrent or metastatic, HER2 negative breast cancer. I believe that such a waiver is appropriate because in this case, Dr. Hussain's voting participation is necessary to afford the committee essential expertise.

DECISION:

X Waiver granted based on my determination, made in accordance with section 712(c)(2)(B) of the Federal Food, Drug, and Cosmetic Act, that voting participation is necessary to afford the committee essential expertise.

____ Waiver granted based on my determination, made in accordance with section 712(c)(2)(B) of the Federal Food, Drug, and Cosmetic Act, that nonvoting participation is necessary to afford the committee essential expertise.

____ Waiver denied.

/S/ 11/15/07

Randall W. Lutter, Ph.D. Date
Deputy Commissioner for Policy
Food and Drug Administration