DEPARTMENT OF HEALTH & HUMAN SERVICES Public Health Service

Food and Drug Administration
Rockville MD 20857

DATE: October 23, 2007

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

THROUGH: Vince Tolino /S/ 10/24/07
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

Michael F. Ortwerth, Ph.D. /S/ 11/14/07
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: 208(b)(1) Conflict of Interest Waiver for Barry Massie, M.D.

I am writing to request a waiver for Barry Massie, M.D., a temporary voting member of the Cardiovascular and Renal Drugs Advisory Committee, from the conflict of interest prohibitions of 18 U.S.C. §208(a). Waivers under section 208(b)(1) may be granted by the appointing official where "the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee" and where the individual has made a disclosure of the financial interests at issue. We have determined that you are the appointing official for purposes of section 208. Therefore, you have the authority to grant Barry Massie, M.D. a waiver under section 208(b)(1).

Section 208(a) prohibits Federal executive branch employees, including special Government employees, from participating personally and substantially in matters in which the employee or his employer has a financial interest. Because Dr. Massie is a regular Federal employee, he 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 him or his employer.

The function of the Cardiovascular and Renal 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 cardiovascular and renal disorders and to make appropriate recommendations to the Commissioner of Food and Drugs.

Dr. Massie has been asked to participate in all official matters concerning (1) new drug application (NDA) 22-034, vernakalant hydrochloride injection, 20 milligrams per milliliter, for the proposed indication of use for conversion of atrial fibrillation to normal sinus rhythm. Vernakalant Hydrochloride Injection is sponsored by Astellas Pharma, Inc., and co-sponsored with Cardiome Pharma Corp; and, (2) new drug application (NDA) 22-123, Pulzium (tedisamil sesquifumarate)IV solution 2 milligrams per milliliter, for the proposed indication of use for conversion of atrial fibrillation or atrial flutter to normal sinus rhythm. Pulzium (tedismil sesquifumarate) is sponsored by Solvay Pharmaceuticals, Inc., a subsidiary of Solvay S.A.

These matters are coming before a meeting of the Cardiovascular and Renal Drugs Advisory Committee. These issues are particular matters involving specific parties.

Dr. Massie has advised the Food and Drug Administration (FDA) that he has a financial interest which could potentially be affected by his participation in the matter described above. Dr. Massie is a member of ———'s Steering Committee for an unrelated ——————— study. ———, a subsidiary of ———————, is the sponsor of ——— ———, a competing product.

As a temporary member to the Cardiovascular and Renal Drugs Advisory Committee Committee, Dr. Massie potentially could become involved in matters that could affect his financial interests. Under section 208, he is prohibited from participating in such matters. However, as noted above, you have the authority under 18 U.S.C. §208(b)(1) to grant a waiver permitting Dr. Massie to participate in such matters as you deem appropriate.

For the following reasons, I believe that it would be appropriate for you to grant a waiver to Dr. Massie that would allow him to participate in the matter described because the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from him.

First, Dr. Massie's ——— interest is remote to the particular matters in which he is being asked to participate.

Second, Dr. Massie's financial interest in ——— is not so substantial as to preclude his participation in this meeting. He receives minimal compensation for serving on the Steering Committee.

Third, according to the review division, Dr. Massie's participation in this meeting is essential because of his extensive expertise and background in the areas of heart failure, hypertension, cardiovascular therapeutics, and his involvement in various clinical trials. Dr. Massie is a former member of the FDA Cardiovascular and Renal Drugs Advisory Committee and has extensive knowledge of the committee's role in evaluating challenging issues presented for consideration in new drug applications such as those pending before the Review division for the December 11-12 Advisory Committee meeting. He is Professor of Medicine at the University of California, San Francisco and Chief of the Cardiology Section at the San Francisco Veterans Administration Medical Center. Dr. Massie's research relates to the pathophysiology and management of heart failure, including mechanisms of exercise intolerance in congestive heart failure (CHF), new approaches to the treatment of CHF, mechanisms of progression of left ventricular dysfunction and health services research in the field of heart failure.

The topic of the December 11-12 Advisory Committee meeting involves 2 new drug applications for the proposed indication of conversion of atrial fibrillation to normal sinus rhythm. Dr. Massie has studied and published on the topic of atrioventricular conduction in heart failure patients with atrial fibrillation and the clinical implications and relevance to the evaluation of investigational drugs. Dr. Massie also participated in research through the VA Cooperative Study 320 on antiarrhythmic therapy in heart failure.

At this time, of the 8 SGE's considered as possible alternatives to Dr. Massie, all 8 were more seriously conflicted or unavailable to attend this advisory committee meeting. He has served at FDA Cardiovascular and Renal Drugs Advisory Committee meetings for over five years (as Chair for one), and consults frequently on issues of drug development, trial design, preparation for FDA presentations, and related issues. Dr. Massie's unique expertise and background in cardiovascular therapeutics will serve the committee discussions well on December 11-12 on the two new drug applications under consideration. His role at the San Francisco Veterans Administration Medical Center has afforded him the position to provide information on new approaches in the research of heart failure. The division further believes that Dr. Massie's participation during Committee deliberations is invaluable and will provide a foundation for developing advice and recommendations that are fair and comprehensive.

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 Barry Massie, M.D., a waiver that would allow him to participate in all official matters concerning: (1) new drug application (NDA) 22-034, vernakalant hydrochloride injection, 20 milligrams per milliliter, for the proposed indication of use for conversion of atrial fibrillation to normal sinus rhythm. Vernakalant Hydrochloride Injection is sponsored by Astellas Pharma, Inc., and co-sponsored with Cardiome Pharma Corp; and, (2) new drug application (NDA) 22-123, Pulzium (tedisamil sesquifumarate)IV solution 2 milligrams per milliliter, for the proposed indication of use for conversion of atrial fibrillation or atrial flutter to normal sinus rhythm. Pulzium (tedismil sesquifumarate) is sponsored by Solvay Pharmaceuticals, Inc., a subsidiary of Solvay S.A. I believe that such a waiver is appropriate because in this case, the need for the services of Dr. Massie outweighs the potential for a conflict of interest created by the financial interest attributed to him.

DECISION:

X Waiver granted based on my determination, made in accordance with section 208(b)(1), that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from this individual.

_____ Waiver denied.

/S/ 11/19/07

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