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: 712(c)(2)(B) 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 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 "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 section 712(c)(2)(B). Therefore, you have the authority to grant Dr. Massie 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 Dr. Massie is a full-time Government 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.

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 that 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 voting member of the Cardiovascular and Renal Drugs Advisory Committee, Dr. Massie could become involved in matters that could affect his financial interests. Under section 712(c)(2)(A), he 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. Massie to participate in such matters if necessary to afford this committee essential expertise.

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 fully in the matter described because his voting participation is necessary to afford the committee essential expertise.

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. I believe that participation by Dr. Massie in the committee's deliberations 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 Barry Massie, M.D., a waiver that would allow his voting participation 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, Barry Massie, M.D., 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/ 11/19/07

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