DEPARTMENT OF HEALTH & HUMAN SERVICES

MEMORANDUM

Food and Drug Administration
Rockville MD 20857

DATE: January 26, 2006

TO: Jason D. Brodsky
Acting Associate Commissioner
Office of External Relations
Food and Drug Administration

THROUGH: Jenny Slaughter
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

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

SUBJECT: Conflict of Interest Waiver for Ralph Sacco, M.D.

I am writing to request a waiver for Ralph Sacco, M.D., a member of the Peripheral and Central Nervous System Advisory Committee, from the conflict of interest prohibitions of 18 U.S.C. §208(a). The appointing official may grant waivers under 18 U.S.C. §208(b)(3) where "the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved" and where the individual has made a disclosure of the financial interests at issue. You are the appointing official for purposes of section 208; therefore, you have the authority to grant Dr. Sacco a waiver under section 208(b)(3).

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. Since Dr. Sacco is a special 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 or his employer.

The function of Peripheral and Central Nervous System Drugs Advisory Committee, as stated in its charter, is to review and evaluate data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases and make appropriate recommendations to the Commissioner of Food and Drugs.

Dr. Sacco has been asked to participate in all official matters regarding Biologic License Application (BLA) 125104/15, Tysabri (Natalizumab) injection, sponsored by Biogen Idec, Inc. and Elan Pharmaceuticals, a subsidiary of Elan Corporation, plc. Issues on the agenda for this meeting include (1) the risks (including progressive multifocal leukoencephalopathy (PML)) associated with Tysabri administration, (2) the efficacy of Tysabri for the treatment of patients with relapsing forms of multiple sclerosis to delay the progression of physical disability and to reduce the frequency of clinical exacerbations, (3) the possible return of Tysabri to the market place, and (4) the proposed risk management plan(s) for Tysabri.

Dr. Sacco 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. Sacco is a consultant to [redacted], regarding [redacted] unrelated to the issue before the committee. [redacted] is involved with a couple of the competing products to Tysabri (natalizumab).

As a member of the Peripheral and Central Nervous System Advisory Committee, Dr. Sacco could potentially become involved in matters that could affect his financial interest. 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)(3) to grant a waiver permitting Dr. Ralph Sacco 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 Ralph Sacco, M.D., that would permit him to participate in the matters previously described.

First, arguably, Dr. Sacco's interest in ——— ——— does not constitute a financial interest in the particular matter within the meaning of 18 U.S.C. §208(b)(3), since his consulting is unrelated to the issues and product at issue, and the competing products. Nevertheless, I recommend that this waiver be granted.

Second, Dr. Sacco's financial interest is not so substantial as to preclude his participation in this meeting. He receives nominal compensation for his consulting.

Further, 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 various advisory committee members and Dr. Sacco's participation will contribute to the balance of views represented and the diversity of opinions and expertise. 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. Dr. Sacco is Professor of Neurology and Epidemiology at the Neurological Institute of Columbia University College of Physicians and Surgeons, the Mailman School of Public Health, and the Sergievsky Center. He is Associate Chair of Neurology for Clinical Research and Training and Director of the Stroke and Clinical Care Division, and an Attending Neurologist at the New York Presbyterian Hospital in New York City. Dr. Sacco began his clinical research in 1980. Since 1990, he has been the Director of the Northern Manhattan Stroke Study a NIH-funded community-based, epidemiologic study designed to determine stroke incidence, risk factors, and prognosis in an elderly, multiethnic, urban population living in northern Manhattan in New York City. He has published extensively in the areas of stroke prevention, risk factors and stroke recurrence, as well as on the diagnostic

assessment of cerebral infarctions with more than 300 original articles, case reports, book chapters, abstracts and communications to his credit. He serves as a Fellow of the Stroke and Epidemiology Councils of the American Heart Association, a Fellow of the American Academy of Neurology, a member of the American Neurological Association, chair of the Clinical Research Committee and past President of the Neuroepidemiology Section of the American Academy of Neurology. I believe that Dr. Sacco's participation will bring an enormous amount of experience, knowledge and expertise that will provide a foundation for developing advice and recommendations that are fair and comprehensive.

Accordingly, I recommend that you grant Ralph Sacco, M.D., a waiver that will permit him to participate in all official matters concerning Biologic License Application (BLA) 125104/15, Tysabri (Natalizumab) injection, sponsored by Biogen Idec, Inc. and Elan Pharmaceuticals, a subsidiary of Elan Corp., plc. I believe that such a waiver is appropriate because in this case, the need for the services of Dr. Sacco outweighs the potential for a conflict of interest created by the financial interest attributable to him.

CONCURRENCE: _____ 2/1/06

Jenny Slaughter
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

Date

DECISION:

✓ Waiver granted based on my determination, made in accordance with section 18 U.S.C. §208(b)(3), that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest attributable to the individual.

_____ Waiver denied.

_____ 2.6.06

Jason D. Brodsky
Acting Associate Commissioner
Office for External Relations
Food and Drug Administration

Date