DEPARTMENT OF HEALTH & HUMAN SERVICES Public Health Service

Food and Drug Administration
Rockville MD 20857

MEMORANDUM

DATE: July 31, 2006

TO: Randall Lutter, Ph.D.
Associate Commissioner for
Policy and Planning
Food and Drug Administration

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

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

SUBJECT: Conflict of Interest Waiver for Ronald Bukowski, M.D.

I am writing to request a waiver for Ronald Bukowski, M.D., a consultant to the Center for Drug Evaluation and Research, from the conflict of interest prohibitions of 18 U.S.C. §208(a). The appointing official may grant waivers under section 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. We have determined that you are the appointing official for purposes of section 208. Therefore, you have the authority to grant Ronald Bukowski, M.D., a waiver under 18 U.S.C. §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 any other person whose interests are imputed to the employee under 18 U.S.C. §208, has a financial interest. Since Dr. Bukowski is a special Government employee, he is under a statutory obligation to refrain from participating in an official capacity in any particular matter having a direct and predictable effect on

a financial interest attributable to him, his spouse, minor child, or general partner; an organization or entity for which he serves as an officer, director, trustee, general partner, or employee; and, a person with whom he is negotiating for, or has an arrangement concerning, prospective employment.

Dr. Bukowski has been asked to participate in all official matters concerning (1) New Drug Application (NDA) 21-874, proposed trade name Genasense (oblimersen sodium) Injection, sponsored by Genta Inc., proposed indication for the treatment of patients with chronic lymphocytic leukemia in combination with fludarabine and cyclophosphamide; (2) NDA 020-287, Fragmin (dalteparin sodium), sponsored by Pfizer, Inc., for the proposed indication of extended treatment of symptomatic venous thromboembolism (VTE), such as proximal deep venous thromboses (DVT) and/or pulmonary embolism (PE), to reduce the recurrence of VTE in patients with cancer; and, (3) NDA 21-660, Abraxane (paclitaxel protein-bound particles for injectable suspension)(albumin-bound), sponsored by Abraxis BioScience, Inc., including trial design issues for adjuvant treatment of node-positive breast cancer. These matters are coming before the Oncologic Drugs Advisory Committee for consideration.

The functions of the Oncologic Drugs Advisory Committee, as stated in its Charter, are 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. Bukowski has advised the Food and Drug Administration that he has financial interests that could potentially be affected by his participation in the matter described previously. **Dr. Bukowski serves as a consultant to ———————— , ———, and ——— on renal cell carcinoma. ———————— and ——— make competing products to Genasense and Fragmin. ——— is the sponsor of ——— and manufactures competing product to Fragmin and Abraxane. Dr. Bukowski also serves on ————————'s Speaker's Bureau. He lectures on ——— on the treatment of colon cancer and antiangiogenesis strategies. ———————— manufactures competing products to Genasense and Abraxane.**

As a consultant advising the Oncologic Drugs Advisory

Committee, Dr. Bukowski potentially could become involved in matters that could affect his financial interests. Under 18 U.S.C. §208(a), 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. Bukowski 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. Ronald Bukowski that would permit him to participate in the matter described previously.

First, Dr. Bukowski's interests in ———————, ———, ———, and ———— are unrelated to the particular matter in which he is being asked to participate. Arguably, his interests do not constitute financial interests in the particular matter within the meaning of 18 U.S.C. §208(a). Nevertheless, in the utmost of caution, I recommend that this waiver be granted.

Second, Dr. Bukowski's interests in ———————, ———, ———, and ———— are not so substantial as to preclude his participation in the matter described previously. He receives minimal compensation for his consulting activities.

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 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. Ronald Bukowski, M.D., is the Director, Experimental Therapeutics Program, at the Cleveland Clinic Foundation Taussig Cancer Center. In addition to serving in the Departments of Hematology and Medical Oncology and Immunology at the Cleveland Clinic, he is a board member and medical director of the Kidney Cancer Association. Dr. Bukowski is a member of several professional societies, including the American Association of Cancer Research, the American Society of Clinical Oncology, the American Society of Hematology, and the International Society of Interferon Research. He is also a Fellow of the American College of Physicians. Dr. Bukowski has authored or co-authored over 240 publications since 1976. His special interests include medical oncology, drug development,

biologic response modifiers, and genitourinary cancer, and cytogenetics. I believe that Dr. Bukowski's participation will help provide a foundation for developing advice and recommendations that are fair and comprehensive.

Accordingly, I recommend that you grant Ronald Bukowski, M.D., a waiver that would allow him to participate in all official matters concerning (1) New Drug Application (NDA) 21-874, proposed trade name Genasense (oblimersen sodium) Injection, sponsored by Genta Inc., proposed indication for the treatment of patients with chronic lymphocytic leukemia in combination with fludarabine and cyclophosphamide; (2) NDA 020-287, Fragmin (dalteparin sodium), sponsored by Pfizer, Inc., for the proposed indication of extended treatment of symptomatic venous thromboembolism (VTE), such as proximal deep venous thromboses (DVT) and/or pulmonary embolism (PE), to reduce the recurrence of VTE in patients with cancer; and, (3) NDA 21-660, Abraxane (paclitaxel protein-bound particles for injectable suspension)(albumin-bound), sponsored by Abraxis BioScience, Inc., including trial design issues for adjuvant treatment of

node-positive breast cancer. These matters are coming before the Oncologic Drugs Advisory Committee for consideration. I believe that such a waiver is appropriate because in this case, the need for the services of Ronald Bukowski, M.D., outweighs the potential for a conflict of interest created by the financial interests attributable to him.

CONCURRENCE: /s/ 8/3/06

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

Date

DECISION:

X 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.

/s/ 8/11/06

Randall Lutter, Ph.D.
Associate Commissioner for
Policy and Planning
Food and Drug Administration

Date