



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 15/ 10/31/07
Director, Ethics and Integrity Staff
Office of Management Programs
Office of Management

Michael F. Ortwerth, Ph.D. 15/ 11/8/07
Deputy Director, Advisory Committee Oversight and Management Staff
Office of Policy, Planning, and Preparedness

FROM: Igor Cerny, Pharm.D. 15/
Director, Advisors and Consultants Staff
Center for Drug Evaluation and Research

SUBJECT: 208(b)(3) 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 18 U.S.C. §208(a). Waivers under section 208(b)(3) may be granted by the appointing official 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 Dr. Hussain 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 her employer has a financial interest. Because Dr. Hussain 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 or her employer.

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 a meeting of 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 _____, _____, _____, 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 potentially could become involved in matters that could affect her financial interests. Under section 208, she is prohibited from participating in such matters. However, as noted above, you have the authority under section 208(b)(3) to grant a waiver permitting Dr. Hussain 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. Hussain that would allow her to participate fully in the matter described because the need for her services greatly outweighs the conflict of interest created by this financial interest.

First, the _____-sponsored study of _____ is for an indication unrelated to the indication being sought for Avastin. It is highly unlikely that Dr. Hussain's participation in the matter coming before the committee will have an impact on the trial. It is difficult to predict that any action, short of "clinical hold", would lead to the discontinuation of the trial or a modification of the protocol that would directly affect the financial interest of Dr. Hussain and her employer.

Second, given the nature of unrelated consulting Dr. Hussain provides to _____, it is unlikely that Committee recommendations will significantly impact the economic stability of the company

or her continued relationship with them. _____ is a large well-established firm with multiple product lines and worldwide presence.

Third, Dr. Hussain's _____ stock interests are not so substantial as to preclude her participation in this meeting. Additionally, _____, _____, _____, _____, _____, _____, and _____ are large, well-established firms with multiple product lines and global presence. It is unlikely that Committee recommendations will significantly impact the economic stability of these companies.

Lastly, the Division's experience with Dr. Hussain has been unmatched. 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. She has 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. In addition, 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. Due to her previous experience as Chair on the ODAC, Dr. Hussain understands the complex regulatory scheme by which clinical trial data is reviewed and interpreted and how this is utilized to support the supplemental BLA at hand. Dr. Hussain's unique combination of delivering this guidance in the most qualified manner to provide balance in approach and ensure a sound scientific discussion and her experience with the advisory committee process makes her uniquely qualified. For these reasons, a search was not done for another cancer specialist. The Center believes the benefits of Dr. Hussain's participation in this meeting will greatly outweigh any potential financial conflicts of interest.

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. Dr. Hussain currently serves as Professor of Medicine and Urology in the Departments of Internal Medicine and Urology, Division of Hematology/Oncology at the University of Michigan. She is a national expert and leader in the management of prostate and bladder cancer and chairs the Advanced Prostate Cancer Subcommittee of the Southwest Oncology Group. Dr. Hussain is the author of more than 60 articles and book chapters and actively participates in clinical trials in urologic malignancies and development of novel therapies. I believe that participation by Dr. Hussain in the committee's deliberations will contribute to the diversity of opinions and expertise represented on the committee.

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, the need for the services of Dr. Hussain outweighs the potential for a conflict of interest created by the financial interest attributed to her.

DECISION:

Waiver granted based on my determination, made in accordance with section 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.

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

11/15/07
Date