

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>ARTHUR RAY BOWLING, ET AL.,</b>	:	
	:	<b>No. C-1-91-256</b>
<b>PLAINTIFF,</b>	:	
	:	
<b>v.</b>	:	<b>JUDGE HERMAN J. WEBER,</b>
	:	<b>SENIOR JUDGE</b>
<b>PFIZER, INC. ET AL.,</b>	:	
	:	
<b>DEFENDANT.</b>	:	

**NOTICE OF FILING OF THE THIRTIETH REPORT OF THE  
SPECIAL MASTERS/TRUSTEES COVERING THE PERIOD  
FROM OCTOBER 9, 2008 TO APRIL 15, 2009**

NOTICE IS HEREBY GIVEN to all counsel of record that the THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES COVERING THE PERIOD FROM OCTOBER 9, 2008 to APRIL 15, 2009 is hereby filed with the Court.

Respectfully submitted,

/s/ Nancy A. Lawson  
Nancy A. Lawson (0012699)  
DINSMORE & SHOHL LLP  
1900 Chemed Center  
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(513) 977-8200  
*Attorney for  
Special Masters/Trustees*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**IN RE:** : **Case No. C-1-91-256**  
:  
**BOWLING-PFIZER LITIGATION** : **Judge Herman J. Weber,**  
: **Senior Judge**

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**THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES  
COVERING THE PERIOD FROM OCTOBER 9, 2008 TO APRIL 15, 2009**

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**SPECIAL MASTERS/TRUSTEES**

**James A. Higgins, Esq.  
Peter J. Strauss, Esq.**

## **AGENDA**

### **THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES**

In Re: Bowling-Pfizer Litigation

Case No. C-1-91-256

April 30, 2009  
11:00 A.M.

Hon. Herman J. Weber, Senior Judge

1. Introductory remarks by Judge Weber.
2. Report of the Special Masters/Trustees.
3. Comments from Counsel:  
    Class Counsel.  
    Counsel for Defendants.
4. Questions and comments from those in attendance.
5. Request for date of next report of Trustees.
6. Closing remarks of Judge Weber.

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- A. Thirtieth Report of the Special Masters/Trustees
- B. Appendices to Court Report
  - 1. Summary of Research
  - 2. "Hit Report" regarding the Supervisory Panel's Website.
  - 3. Summary of the Status of Funding for the Settlement at December 31, 2008.
  - 4. Unaudited balance sheet as of December 31, 2008 and an unaudited statement of income and funds balance for the year ended December 31, 2008.
  - 5. Independent Auditors' Report for the year ended December 31, 2007.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**IN RE:** : **Case No. C-1-91-256**  
**BOWLING-PFIZER LITIGATION** : **Judge Herman J. Weber,**  
: **Senior Judge**

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**THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES**

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To the Honorable Herman J. Weber, Senior Judge, United States District Court:

Your Special Masters/Trustees respectfully present their thirtieth periodic report, covering activities from October 9, 2008 to April 15, 2009. This report is submitted fifteen days prior to the status hearing before the Court scheduled for April 30, 2009.

**I. PATIENT BENEFIT FUND**

A. Supervisory Panel. The research project for ACES to study the BSCC heart valve sound recordings made on patients who participated in the imaging studies at Stanford and Beaumont has been completed. Unfortunately, the quality of the imaging study recordings was not at a level which permitted ACES to successfully analyze the acoustic signals of the heart valves therein. The panel is waiting on the outcome of the study by Dr. J. de Hart of HemoLab Cardiovascular Engineering in The Netherlands entitled "Outlet strut vibratory response study of BSCC valves at disc-strut closure impact" prior to considering possible next steps with ACES. The purpose of that study is to conduct in vitro research on seven BSCC heart valves, including the valve which had been implanted in a sheep at BioSurg, but was misclassified. The results of Phase I (static study of valves in air) of the study are expected in April, 2009.

The Supervisory Panel received a proposal from MedicAlert to provide emergency alert services to class members in Europe. After discussions with representatives from MedicAlert and with counsel, the Panel decided not pursue the proposal at this time because the Panel is still hopeful of developing a device or method that will give class members important information about the status of their valves and funds need to be preserved for this research.

A renewal agreement for the Penn State University, Hershey Imaging Program was approved by the Court on October 27, 2008 for a period of an additional six months or until the \$160,000 funding authorized by the Court is expended. As of February 28, 2009, the balance of funds remaining for this program was \$65,338. The Panel has recommended another six-month extension of this program.

In December 2008, Drs. Harrison and Weyman and the Chair of the Supervisory Panel along with John Johnson made an on-site visit to Hershey Medical Center. As a result of that visit, the Panel is in preliminary discussions with Hershey regarding Hershey's review of cine fluoroscopy films of BSCC heart valve patients.

In October 2008, Class Counsel requested that the panel consider posting a list of high-risk valves on the Bowling Pfizer website. After review of the materials submitted, the Panel decided not to post such a list as it is the Panel's position that such a list would undermine the guidelines and create confusion for the vast majority of class members who do not qualify for payment of surgical benefits under the guidelines.

At the April 30, 2008 hearing with the Court, the Court requested that the Trustees investigate the ramifications of indemnification by the Trust of the parties who are not otherwise protected by insurance in the event that the trust funds dwindle to the extent that indemnification is meaningless. The Trustees analyzed this issue and determined that commercial insurance should be investigated. The Trustees have investigated commercial insurance and have submitted several

applications for insurance. In each instance, the carriers either declined to provide coverage for the members of the Supervisory Panel or imposed such exclusions from their proposed coverage as to make the coverage pointless in relation to eliminating the risk of indemnification of the members of the Panel by the Trust. At this time the Trustees are not optimistic that satisfactory insurance can be obtained for the members of the Supervisory Panel. The Trustees will pursue this matter if circumstances change and a carrier is located that will provide coverage for the members of the Supervisory Panel. The Trustees will continue to report to the Court on the status of this matter.

B. Guidelines. Drs. Harrison, Ibrahim and Ivey regularly monitor the pertinent world-wide literature and review reported events occurring to class members to ensure that any issues which may impact the guidelines are detected and considered by the full panel. They have found no information indicating the need to change the Guidelines at this time.

C. Research. Our report on the status of the research program of the Supervisory Panel is set out in the attached Appendix 1.

D. Imaging. Since the imaging program at Penn State resumed again, effective April 26, 2005, there have been eleven imaging sessions for seven implantees who may qualify for valve replacement surgery. One implantee was imaged three times and two implantees were imaged two times during this period.

E. Repository. The Supervisory Panel maintains a repository of certain documents and information concerning the BSCC heart valve. The repository contains reports on the results of research sponsored by the Supervisory Panel, minutes of meetings of the Supervisory Panel, a bibliography of published literature regarding the BSCC heart valves, certain unpublished reports prepared by Dr. Ron Brookmeyer of his statistical analysis, the Bowling Settlement Agreement, and other information. The repository is available electronically in a database. Some of the information, such as published articles are not available for review due to copyright and other intellectual

property concerns. To access the on-line repository, an individual need only contact the Trustees' office for the website address and a password.

F. Website. The Supervisory Panel's website continues to be found at [www.bowling-pfizer.com](http://www.bowling-pfizer.com). It provides basic information on the parties involved (biographies, addresses, telephone numbers, email, etc.), certain orders of the Court including the Guidelines, the Settlement Agreement, Trustee Reports and a bibliography of relevant articles as well as other important information. The panel prepared a summary of key studies which is intended to provide a more user-friendly bibliography. This user-friendly bibliography is available on the website. A copy of the most recent "hit report" of the Supervisory Panel's website is attached to this Report as Appendix 2.

G. Valve Replacement Surgery Claims and Fracture Claims.

The Claims Administrator continues to receive and process claims for valve replacement surgery and outlet strut fracture. Some of the claimants have elected other courses of action rather than to receive the Settlement benefits.

From the beginning there have been 98 (74 foreign) qualified outlet strut fracture claims and 99 (39 foreign) qualified valve replacement surgery claims other than single leg fracture claims. In addition, there have been 39 (16 foreign) single leg fracture claims.

The office of the Claims Administrator continues to fulfill requests to calculate estimated annual fracture rates under the 2007 Guidelines and to respond to other inquiries from and on behalf of Class Members.

## **II. FINANCIAL INFORMATION**

At December 31, 2008, the total balance of cash and cash equivalents was \$21,880,946.

Attached as Appendix 3 are a summary of the status of funding for the Settlement and five related schedules.



Attached as Appendix 4 are the following: an unaudited balance sheet as of December 31, 2008 and an unaudited statement of income and funds balance for the year ended December 31, 2008 (which includes the budgeted amounts for expenses for the administrative office for the year ended December 31, 2008).

Attached as Appendix 5 is a copy of the Independent Auditors' Report for the year ended December 31, 2007.

### III. COMMUNICATIONS

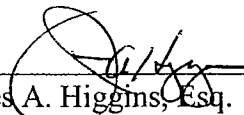
Communications remain open, whether with physicians, Class Members, other BSCC heart valve implantees, Class Counsel, Special Counsel, Defendant's Counsel, or Counsel for Public Citizen.


### IV. APPROVALS

Your honor, the Special Masters/Trustees request that the Court:

- Approve this Report, and
- Approve, or provide guidance with respect to, each of the Appendices to this Report, and
- Provide guidance with respect to any duty of the Special Masters/Trustees, and
- Fix the date for the next Report.

Respectfully submitted,

  
\_\_\_\_\_  
James A. Higgins, Esq.

  
\_\_\_\_\_  
Peter J. Strauss, Esq.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this Thirtieth Report of the Special Master/Trustee Covering Period from October 9, 2008 to April 15, 2009, has been electronically sent to the following this 15th day of April, 2009.

Stanley M. Chesley, Esq.  
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/s/ Nancy A. Lawson  
Nancy A. Lawson



**SUPERVISORY PANEL SUMMARY OF RESEARCH PROJECTS** (as of April 6, 2009)

<b>A. Current Epidemiology Projects</b>		Effective Date of Contract	Termination Date	Description of Project	Current Status	Contract Amount	Billed To Date
None							
<b>B. Current Imaging &amp; Acoustic Projects</b>		Effective Date of Contract	Termination Date	Description of Project	Current Status	Contract Amount	Billed To Date
1.	Hershey Imaging	10/27/08	4/28/09	Radiographic Imaging to Detect SLS		\$160,000	\$94,662
2.	Hemolab Cardiovascular (Jurgen de Hart)	12/10/08	8/9/09	Study of second harmonic in BSCC valves.		€75,000	0
3.	ACES	7/14/08	12/22/08	Analysis of acoustic recordings of human volunteers		\$37,900	\$37,900
<b>C. Projects Completed During Quarter</b>							
<b>D. Approved Research Projects Pending Contract</b>							
None							
<b>E. Proposed Research Projects</b>							



# Hit Report for Bowling-Pfizer.com

	July 2008	August 2008	September 2008
Total Visits	2382	1957	1503
Average Daily Visits	76	63	50
Average Visit Length	14:50	14:58	13:22
Median Visit Length	7:55	3:50	4:59
International Visits	3.14%	3.27%	3.32%
US Visits	88.32%	89.78%	71.05%
Unknown Origin Visits	8.52%	6.94%	25.61%
Unique Visitors	386	271	360
One-Time Visitors	221	169	259
Multiple-Time Visitors	165	102	101
Top Downloads	Update - 48 times Amended 2003 - 41 times Haynes - 40 times 28th Report - 40 times Spanish Translation - 37 times November 2007 Update - 36 times 10th Report - 36 times Total Downloads	Class Letter 2003 - 39 times Haynes - 36 times Guidelines - 35 times Legal Notice to Class - 34 times Bibliography - 34 times 28th Report - 33 times 20th Report - 33 times 719	Settlement - 37 Times Pamphlet - 30 Times Bibliography - 27 Times Haynes - 25 Times Guidelines - 25 Times Patient Notice - 22 Times German Guidelines - 20 Times 644
Top Visitors Locations	Redmond, WA Altadena, CA Seal Beach, CA Stamford, CT Cincinnati, OH	Redmond, WA Altadena, CA Reston, VA Stamford, CT	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT Cincinnati, OH
Countries viewing the site	United States Canada Germany China United Kingdom Australia Seychelles Netherlands	United States Canada Seychelles Japan Germany Taiwan India Belgium	United States Australia Japan Germany Seychelles Poland China Canada

July 2008

**August 2008**

September 2008

States/Provinces viewing site	Washington	Washington	Washington
California	California	California	California
Connecticut	Virginia	Virginia	Virginia
Virginia	Ohio	Ohio	Ohio
Ohio	Connecticut	Tennessee	Tennessee
Maryland	Colorado	Ontario	Ontario
Tennessee	Texas	New York	New York
Colorado	Maryland	Maryland	Maryland
New York	Tennessee	Massachusetts	Massachusetts

Search Engine & Reference -		
Yahoo	Yahoo	Yahoo
MSN	Google	Google
Google	MSN	MSN

Top Domain Types			
Network (.net) - 1250	Network (.net) - 1027	Commercial (.com) - 584	
Commercial (.com) - 872	Commercial (.com) - 744	Network (.net) - 498	
Education (.edu) - 4	Organization (.org) - 2	Organization (.org) - 2	
Government (.gov) - 1	Education (.edu) - 2	Education (.edu) - 2	
Organization (.org) - 1			

**\*\* - NOTE - Site went active on**

# Hit Report for Bowling-Pfizer.com

	August 2008	September 2008	October 2008
Total Visits	1957	1563	2660
Average Daily Visits	63	50	85
Average Visit Length	11:58	13:22	18:10
Median Visit Length	3:50	4:59	5:43
International Visits	3.27%	3.32%	2.29%
US Visits	89.78%	71.05%	59.88%
Unknown Origin Visits	6.94%	25.61%	37.81%
Unique Visitors	271	360	481
One-Time Visitors	169	259	310
Multiple-Time Visitors	102	101	171
Top Downloads	Class Letter 2003 - 39 Times Haynes - 36 Times Guidelines - 35 Times Legal Notice to Class - 34 Times Bibliography - 34 Times 28th Report - 33 Times 20th Report - 33 Times	Settlement - 37 Times Pamphlet - 30 Times Bibliography - 27 Times Haynes - 25 Times Guidelines - 25 Times Patient Notice - 22 Times German Guidelines - 20 Times	Class Letter 2003 - 54 Times Twenty Eighth Report - 44 Times Doctors Letter 2003 - 39 Times Summary 2003 - 38 Times Twenty First Report - 36 Times Bibliography - 36 Times Filing 23rd Report - 36 Times
Total Downloads	644	406	733
Top Visitors Locations	Redmond, WA Seal Beach, CA Altadena, CA Reston, VA Stamford, CT	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT Cincinnati, OH	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT West Newton, Massachusetts
Countries viewing the site	United States Canada Seychelles Japan Germany Taiwan India Belgium	United States Australia Japan Germany Seychelles Poland China Canada	United States Germany Japan United Kingdom Canada Seychelles Belgium Poland



August 2008

September 2008

October 2008

States/Provinces viewing site	Washington			Washington			Washington		
	California			California			California		
	Virginia			Virginia			Virginia		
	Ohio			Ohio			Connecticut		
	Connecticut			Tennessee			Massachusetts		
	Colorado			Ontario			Maryland		
	Texas			New York			New Jersey		
	Maryland			Maryland			Tennessee		
	Tennessee			Massachusetts			New York		
Search Engine & Reference -	Yahoo			Yahoo			Yahoo		
	Google			Google			Google		
	MSN			MSN			MSN		
Top Domain Types	Network (.net) - 1027			Commercial (.com) - 584			Network (.net) - 805		
	Commercial (.com) - 744			Network (.net) - 498			Commercial (.com) - 792		
	Organization (.org) - 2			Organization (.org) - 2			Organization (.org) - 4		
	Education (.edu) - 2			Education (.edu) - 2			Education (.edu) - 3		
							Government (.gov) - 1		

\*\* - NOTE - Site went active on

Hit Report for Bowling-Pfizer.com

	September 2008	October 2008	November 2008
Total Visits	1503	2660	1417
Average Daily Visits	50	85	73
Average Visit Length	13.22	18.10	15.41
Median Visit Length	4:59	5:43	3:48
International Visits	3.32%	2.29%	3.33%
US Visits	71.05%	59.88%	78.03%
Unknown Origin Visits	25.61%	37.81%	18.62%
Unique Visitors	360	481	487
One-Time Visitors	259	310	321
Multiple-Time Visitors	101	171	166
Top Downloads	Settlement - 37 Times Pamphlet - 30 Times Bibliography - 27 Times Haynes - 25 Times Guidelines - 25 Times Patient Notice - 22 Times German Guidelines - 20 Times	Class Letter 2003 - 54 Times Twenty Eighth Report - 44 Times Doctors Letter 2003 - 39 Times Summary 2003 - 38 Times Twenty First Report - 36 Times Bibliography - 36 Times Filing 23rd Report - 36 Times	Report 15 - 57 Times 20th Report - 55 Times French Translation - 49 Times Report 13 - 48 Times German Guidelines - 48 Times Filing 22nd Report - 44 Times Filing 29rd Report - 44 Times
Total Downloads	406	733	888
Top Visitors Locations	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT Cincinnati, OH	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT West Newton, Massachusetts	Redmond, WA Seal Beach, CA Cincinnati, OH Aladena, CA Stamford, CT
Countries viewing the site	United States Australia Japan Germany Seychelles Poland China Canada	United States Germany Japan United Kingdom Canada Seychelles Belgium Poland	United States Japan Canada Germany Belgium Netherlands France Italy

September 2008

October 2008

November 2008

States/Provinces viewing site	Washington	Washington	Washington
	California	California	California
	Virginia	Virginia	Ohio
	Ohio	Connecticut	Minnesota
	Tennessee	Massachusetts	Connecticut
	Ontario	Maryland	Tennessee
	New York	New Jersey	Illinois
	Maryland	Tennessee	Colorado
	Massachusetts	New York	Maryland
Search Engine & Reference -	Yahoo	Yahoo	Yahoo
	Google	Google	Google
	MSN	MSN	SearchMe
Top Domain Types	Commercial (.com) - 584	Network (.net) - 805	Commercial (.com) - 869
	Network (.net) - 498	Commercial (.com) - 792	Network (.net) - 866
	Organization (.org) - 2	Organization (.org) - 4	Education (.edu) - 5
	Education (.edu) - 2	Education (.edu) - 3	Organization (.org) - 3
		Government (.gov) - 1	Government (.gov) - 1

\*\* - NOTE - Site went active on

	October 2008	November 2008	December 2008
<b>Total Visits</b>	2860	1117	2199
<b>Average Daily Visits</b>	85	73	70
<b>Average Visit Length</b>	18.10	15.41	13.51
<b>Median Visit Length</b>	5.43	3.48	6.39
<b>International Visits</b>	2.29%	3.33%	2.27%
<b>US Visits</b>	59.88%	78.03%	75.48%
<b>Unknown Origin Visits</b>	37.81%	18.62%	22.23%
<b>Unique Visitors</b>	481	487	424
<b>One-Time Visitors</b>	310	321	256
<b>Multiple-Time Visitors</b>	171	166	168
<b>Top Downloads</b>	Class Letter 2003 - 54 Times Twenty Eighth Report - 44 Times Doctors Letter 2003 - 39 Times Summary 2003 - 38 Times Twenty First Report - 36 Times Bibliography - 36 Times Filing 23rd Report - 36 Times	Report 15 - 57 Times 20th Report - 55 Times French Translation - 49 Times Report 13 - 48 Times German Guidelines - 48 Times Filing 22nd Report - 44 Times Filing 23rd Report - 44 Times	French Translation - 69 Times Settlement - 62 Times 20th Report - 46 Times German Translation - 41 Times Haynes - 39 Times Doctor Letter 2003 - 39 Times Summary 2003 - 37 Times
<b>Total Downloads</b>	733	888	743
<b>Top Visitors Locations</b>	Redmond, WA Seal Beach, CA Reston, VA Stamford, CT West Newton, Massachusetts	Redmond, WA Seal Beach, CA Cincinnati, OH Aladena, CA Stamford, CT	Redmond, WA Seal Beach, CA Pittsburgh, PA Aladena, CA Cincinnati, OH
<b>Countries viewing the site</b>	United States Germany Japan United Kingdom Canada Seychelles Belgium Poland	United States Japan Canada Germany Belgium Netherlands France Italy	United States Canada Taiwan Netherlands Seychelles Japan France Germany

October 2008

November 2008

December 2008

## States/Provinces viewing site

Washington	Washington	Washington
California	California	California
Virginia	Ohio	Pennsylvania
Connecticut	Minnesota	Virginia
Massachusetts	Connecticut	Ohio
Maryland	Tennessee	Connecticut
New Jersey	Illinois	Tennessee
Tennessee	Colorado	Colorado
New York	Maryland	Ontario

## Search Engine &amp; Reference -

Yahoo	Yahoo	Yahoo
Google	Google	Google
MSN	SearchMe	SearchMe

## Top Domain Types

Network (.net) - 805	Commercial (.com) - 869	Network (.net) - 845
Commercial (.com) - 792	Network (.net) - 866	Commercial (.com) - 800
Organization (.org) - 4	Education (.edu) - 5	Education (.edu) - 21
Education (.edu) - 3	Organization (.org) - 3	Government (.gov) - 3
Government (.gov) - 1	Government (.gov) - 1	Organization (.org) - 3

\*\* - NOTE - Site went active on

	November 2008	December 2008	January 2009
<b>Total Visits</b>	1,117	2,199	2,377
<b>Average Daily Visits</b>	73	70	76
<b>Average Visit Length</b>	15.41	13.51	14.39
<b>Median Visit Length</b>	3.48	6.39	6.01
<b>International Visits</b>	3.36%	2.27%	2.01%
<b>US Visits</b>	78.03%	75.48%	85.10%
<b>Unknown Origin Visits</b>	18.62%	22.23%	12.87%
<b>Unique Visitors</b>	487	424	402
<b>One-Time Visitors</b>	321	256	264
<b>Multiple-Time Visitors</b>	166	168	138
<b>Top Downloads</b>	Report 15 - 57 Times 20th Report - 55 Times French Translation - 49 Times Report 13 - 48 Times German Guidelines - 48 Times Filing 22nd Report - 44 Times Filing 23rd Report - 44 Times	French Translation - 69 Times Settlement - 62 Times 20th Report - 46 Times German Translation - 41 Times Haynes - 39 Times Doctor Letter 2003 - 39 Times Summary 2003 - 37 Times	Settlement - 62 Times French Translation - 52 Times Bibliography - 40 Times 20th Report - 40 Times Precautions - 39 Times Pamphlet - 39 Times Filing 22nd Report - 37 Times
<b>Total Downloads</b>	888	743	761
<b>Top Visitors Locations</b>	Redmond, WA Seal Beach, CA Cincinnati, OH Aladena, CA Stamford, CT	Redmond, WA Seal Beach, CA Pittsburgh, PA Aladena, CA Cincinnati, OH	Redmond, WA Seal Beach, CA Rochester, NY Herndon, VA Stamford, CT
<b>Countries viewing the site</b>	United States Japan Canada Germany Belgium Netherlands France Italy	United States Canada Taiwan Netherlands Seychelles Japan France Germany	United States Japan Canada Netherlands Seychelles France Australia Spain

# Hit Report for Bowling-Pfizer.com

November 2008

December 2008

January 2009

## States/Provinces viewing site

Washington	Washington	Washington
California	California	California
Ohio	Pennsylvania	New York
Minnesota	Virginia	Virginia
Connecticut	Ohio	Connecticut
Tennessee	Connecticut	Ohio
Illinois	Tennessee	Massachusetts
Colorado	Colorado	Texas
Maryland	Ontario	Tennessee

## Search Engine & Reference -

Yahoo	Yahoo	Yahoo
Google	Google	Google
SearchMe	SearchMe	SearchMe

## Top Domain Types

Commercial (.com) - 869	Network (.net) - 845	Commercial (.com) - 1115
Network (.net) - 866	Commercial (.com) - 800	Network (.net) - 897
Education (.edu) - 5	Education (.edu) - 21	Government (.gov) - 7
Organization (.org) - 3	Government (.gov) - 3	Organization (.org) - 7
Government (.gov) - 1	Organization (.org) - 3	Education (.edu) - 3

\*\* - NOTE - Site went active on





# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Status of Funding for the Settlement

December 31, 2008

### Overall Status of Funding

Schedule 1 herewith presents the status of funding for all categories of expenditures of the Settlement. The total of the remaining amount column represents the total assets of the Settlement Fund as of December 31, 2008.

### Status of Administration Expenses

The 20 year anticipated budget for administration expenses was prepared in September 2004 which was prior to, and independent of, the Supervisory Panel's plan for continuing operation (COP). The anticipated budget amounts for the years 2005 through 2009 were generally based upon the level of expenses at the time of and preceding the preparation of the budget in September 2004. It would have been appropriate to have provided a reserve for contingencies. However, it was considered that the overall budget amounts may be adequate to cover unknown contingencies. Schedule 2 herewith presents the budget for administration expenses for the twenty years 2005 through 2024. This schedule was included in the COP as SCHEDULE I.

Schedule 3 herewith presents the actual expenses for 2005 through 2008 and the remaining budgeted amounts through 2024.

Schedule 4 herewith presents a comparison of the actual administration expenses with the budgeted amounts for the period January 1, 2005 through December 31, 2008. As the schedule indicates, the actual expenses are under the budgeted expenses by \$2,657,400 for that time period.

### Status of Research Expenses

Schedule 5 herewith presents an overall comparison of the actual research expenses with those set out in the COP. More detailed information regarding the research expenses has been provided in the Trustees' reports to the Court.

### Supervisory Panel - Fees and Expenses

The COP provided \$3,000,000 for future compensation and expenses of the Supervisory Panel. Compensation and expenses of the Supervisory Panel are subject to approval by the Court on a monthly basis.

### Status of Guidelines Notification

The COP provided \$400,000 for the costs of notification of the 2007 Amended Guidelines and one additional potential notification to BSCC heart valve implantees and physicians. The notification of the 2007 Amended Guidelines was completed.

### Medical Expense Component - Valve Replacement Surgery Benefits

The COP provided \$2,300,000 for the potential future costs of the medical expense component for qualifying BSCC heart valve replacement surgeries. To date none of these funds have been required.

### Class Registration Notice

In an effort to locate unregistered Class Members, a notice was published in seven foreign and thirteen U.S. newspapers. The notice was also placed on the domestic and foreign newswires. This program has been completed.

### Unallocated per COP

The unallocated amount in the COP represents the remaining funds after the allocation of funds for specific purposes.

### Additional Unallocated Funds at December 31, 2008.

At December 31, 2008 there were additional unallocated funds in the amount of \$3,661,200 principally representing interest income on the investment of funds in U.S. Treasury bills. The anticipated budget did not consider any income from invested funds, nor increases in expenses due to inflation, but considered that these items would offset. At the time the budget was prepared the interest rate on T-bills was as low as 1.008%, however, the interest rate subsequently rose to as high as 5.318%. The current interest rate is less than 1%. To date the expenses have been within the amounts budgeted.

### Revision of Budgeted Amounts

After a determination is made as to any future research for the Supervisory Panel and as to whether or not there will be a BSCC heart valve diagnostic center established for testing Class Members, it may be appropriate to revise the budgets for all categories of expenses.

However, any budgeted amounts over actual expenses in these earlier years may be needed to cover future unknown contingencies, and to provide administration for an indefinite period of time which to some extent is anticipated to go beyond 20 years. It is estimated that there will be 2,300-2,900 60° BSCC heart valve implantees living in January 2025. There may also be a nominal number of 70° BSCC heart valve implantees living at that time.

## TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Summary of Allocation of Available Funds

December 31, 2008

	<u>Budget Per COP</u>	<u>Actual Through 12/31/08</u>	<u>Remaining Amount</u>
ADMINISTRATION EXPENSES	\$17,800,000	\$5,682,600	\$12,117,400 (1)
RESEARCH EXPENSES	6,331,200	4,315,900	2,015,300 (2)
SUPERVISORY PANEL - FEES AND EXPENSES	3,000,000	2,131,000	869,000
GUIDELINES NOTIFICATION	400,000	192,400	207,600
MEDICAL EXPENSE COMPONENT-VALVE REPLACEMENT SURGERY BENEFITS	2,300,000		2,300,000
CLASS REGISTRATION NOTICE	300,000	279,400	20,600
ACCOUNTS PAYABLE PER COP	1,058,200	1,058,200	
ACCOUNTS PAYABLE - 12/31/08		(166,000)	166,000
UNALLOCATED PER COP	530,100		530,100
ADDITIONAL UNALLOCATED-PRINCIPALLY INTEREST INCOME 2/1/05-12/31/08		(3,661,200)	3,661,200
	<u>\$31,719,500</u>	<u>\$9,832,300</u>	<u>\$21,887,200 (3)</u>

(1) -See Schedule 3 herewith.

(2) -See Schedule 5 herewith.

(3) -Total assets at December 31, 2008.

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Anticipated Budget – Administration Expenses – 2005 through 2024

	Five Years 2005 thru 2009	Five Years 2010 thru 2014	Ten Years 2015 thru 2024	TOTAL Twenty Years 2005 thru 2024
CLASS & SPECIAL COUNSEL	\$ 3,000,000	\$ 750,000	\$ 750,000	\$ 4,500,000
PUBLIC CITIZEN	200,000	100,000	100,000	400,000
TRUSTEES	1,000,000	500,000	500,000	2,000,000
COUNSEL FOR TRUSTEES	2,000,000	500,000	500,000	3,000,000
ADMINISTRATOR/ CLAIMS ADMINISTRATOR	2,000,000	500,000	500,000	3,000,000
ADMINISTRATIVE OFFICE	2,000,000	800,000	1,700,000	4,500,000
AUDIT	100,000	100,000	200,000	400,000
<b>TOTAL</b>	<b><u>\$10,300,000</u></b>	<b><u>\$3,250,000</u></b>	<b><u>\$4,250,000</u></b>	<b><u>\$17,800,000</u></b>

The above does not include the costs of the research programs and related expenses, fees and expenses of the Supervisory Panel, notification expenses and costs of performing services for any approved diagnostic techniques. The above also does not include the medical expense component of valve replacement surgery benefits, which is an ongoing obligation while monies remain in the Patient Benefit Fund.

For the years 2005 through 2009 the amounts are generally based upon the current level of expenses. For the time periods 2010 through 2014, and 2015 through 2024 the amounts are based upon an estimated level of expenses, since it is not known at this time if any diagnostic techniques may become available for routine use for Class Members.

The above does not consider any income from invested funds, nor increases in expenses due to inflation, but considers that these items would offset. Also, income from any patent or technology rights resulting from the Supervisory Panel's research is not considered.

## TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Administration Expenses - 2005 through 2024

	<u>Budget</u> <u>2005 thru 2024</u>	<u>Actual</u> <u>1/1/05-12/31/08</u>	<u>Remaining</u> <u>Amount</u> <u>thru 2024</u>
CLASS & SPECIAL COUNSEL	\$4,500,000	\$1,577,200	\$ 2,922,800
PUBLIC CITIZEN	400,000	87,100	312,900
TRUSTEES	2,000,000	248,300	1,751,700
COUNSEL FOR TRUSTEES	3,000,000	647,600	2,352,400
ADMINISTRATOR/ CLAIMS ADMINISTRATOR	3,000,000	1,481,500	1,518,500
ADMINISTRATIVE OFFICE	4,500,000	1,587,000	2,913,000
AUDIT	400,000	53,900	346,100
 TOTAL	 <u>\$17,800,000</u>	 <u>\$5,682,600</u>	 <u>\$12,117,400</u>

## TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Administration Expenses - 2005 through 2024

	January 1, 2005 - December 31, 2008		
	<u>Budget</u>	<u>Actual</u>	<u>Under Budget</u>
CLASS & SPECIAL COUNSEL	\$2,400,000	\$1,577,200	\$ 822,800
PUBLIC CITIZEN	160,000	87,100	72,900
TRUSTEES	800,000	248,300	551,700
COUNSEL FOR TRUSTEES	1,600,000	647,600	952,400
ADMINISTRATOR/ CLAIMS ADMINISTRATOR	1,675,000	1,481,500	193,500
ADMINISTRATIVE OFFICE	1,625,000	1,587,000	38,000
AUDIT	80,000	53,900	26,100
	<hr/>	<hr/>	<hr/>
TOTAL	<u>\$8,340,000</u>	<u>\$5,682,600</u>	<u>\$2,657,400</u>

## TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## Continuing Operation of the Supervisory Panel

## Research Expenses

		<u>Budget Per COP</u>	<u>Actual thru 12/31/08</u>	<u>Remaining Amount</u>
Ongoing research - COP	(1)	\$2,021,500	\$1,930,500	\$ 91,000
New research - Diagnostic device -				
Committed thru 12/31/08	(1)	2,270,000	1,651,300	618,700
Not yet committed		1,859,700		1,859,700
Committed-not in COP	(1)		571,500	(571,500)
	(2)			
New research - Guidelines and Epidemiology	(1)	20,000	68,000	(48,000)
Petershey imaging program		160,000	94,600	65,400
		<u>\$4,309,700</u>	<u>\$2,385,400</u>	<u>\$1,924,300</u>
TOTAL		<u>\$6,331,200</u>	<u>\$4,315,900</u>	<u>\$2,015,300</u>

(1) - These research programs have been completed or terminated.

(2) - There is an additional committed research program in the amount of 75,000 Euros which will reduce the remaining amount for research expenses. There were no expenses incurred yet for this program at December 31, 2008.





**TRUSTEES FOR THE BOWLING-PFIZER**  
**HEART VALVE SETTLEMENT FUNDS**

**BALANCE SHEET**

**AS OF DECEMBER 31, 2008**

**UNAUDITED**

**ASSETS**

CASH	\$ 79,750
U.S. TREASURY BILLS	21,801,196
OTHER ASSETS	<u>6,289</u>
	<u>\$ 21,887,235</u>

**LIABILITIES AND FUNDS BALANCE**

ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$ 165,984
FUNDS BALANCE	<u>21,721,251</u>
	<u>\$ 21,887,235</u>

TRUSTEES FOR THE BOWLING-PFIZER  
HEART VALVE SETTLEMENT FUNDS

STATEMENT OF INCOME AND FUNDS BALANCE

FOR THE YEAR ENDED DECEMBER 31, 2008

UNAUDITED

INVESTMENT INTEREST INCOME	\$ 547,344
RESEARCH PROGRAMS - COSTS	<u>52,733</u>
LITIGATION ATTORNEYS - FEES & EXPENSES	<u>339,769</u>
EXPENSES:	
Supervisory Panel	263,798 (1)
Trustees' fees and expenses	47,946
Professional fees	163,611
Administrative office	<u>574,609 (1)</u>
Total	<u>1,049,964</u>
NET CHANGE IN FUNDS BALANCE	(895,122)
FUNDS BALANCE, DECEMBER 31, 2007	<u>22,616,373 (2)</u>
FUNDS BALANCE, DECEMBER 31, 2008	<u>\$ 21,721,251</u>

(1) - See Schedule 1 herewith.

(2) - This amount is different than the balance in the audited financial statements due to accruing certain expenses on the unaudited financial statements to more currently reflect the financial condition of the Settlement Funds.

**TRUSTEES FOR THE BOWLING-PFIZER**  
**HEART VALVE SETTLEMENT FUNDS**

**SCHEDULE OF EXPENSES**  
**UNAUDITED**

	<b><u>BUDGET</u></b>	<b><u>ACTUAL</u></b>
	<b><u>1/1/08-12/31/08</u></b>	<b><u>1/1/08-12/31/08</u></b>
<b>SUPERVISORY PANEL:</b>		
Panel members' compensation		\$ 225,040
Consultants' compensation		27,050
Travel and incidental expenses		4,369
Miscellaneous		<u>7,339</u>
Total		<u>\$ 263,798</u>
<b>ADMINISTRATIVE OFFICE:</b>		
Rents	\$ 68,000	\$ 67,043
Office payroll	413,000	390,709
Payroll taxes	28,000	30,316
Employee benefits	76,000	72,136
Outside services	12,000	2,325
Printing and postage	6,000	1,810
General insurance	3,000	1,035
Telephone	9,000	7,807
Office supplies and expense	6,000	4,453
Miscellaneous	6,000	555
Administrative services income	<u>(5,000)</u>	<u>(3,580)</u>
Total	<u>\$ 622,000</u>	<u>\$ 574,609</u>



# Bowling-Pfizer Heart Valve Litigation Settlement Fund

Financial Statements — Modified Cash  
Basis as of and for the Years Ended December 31,  
2007 and 2006, and Independent Auditors' Report



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## INDEPENDENT AUDITORS' REPORT

### Bowling-Pfizer Heart Valve Litigation Settlement Fund:

We have audited the accompanying statements of assets, liabilities, and fund balance — modified cash basis of the Bowling-Pfizer Heart Valve Litigation Settlement Fund (the "Fund") as of December 31, 2007 and 2006, and the related statements of income, expenses, and change in fund balance — modified cash basis, and of cash flows — modified cash basis for the years then ended. These financial statements are the responsibility of the Fund's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 2 to the financial statements, these financial statements were prepared on the modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, such financial statements present fairly, in all material respects, the assets, liabilities, and fund balance of the Fund at December 31, 2007 and 2006, and its income, expenses, and change in fund balance, and its cash flows for the years then ended, on the basis of accounting described in Note 2.

*DELOITTE & TOUCHE LLP*

September 23, 2008

## BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND

### STATEMENTS OF ASSETS, LIABILITIES, AND FUND BALANCE — MODIFIED CASH BASIS AS OF DECEMBER 31, 2007 AND 2006

---

	2007	2006
<b>ASSETS</b>		
CASH	\$ 348,259	\$ 447,973
INVESTMENTS	22,384,957	23,357,384
OTHER ASSETS	<u>5,977</u>	<u>          </u>
TOTAL	<u>\$22,739,193</u>	<u>\$23,805,357</u>
 <b>LIABILITIES AND FUND BALANCE</b>		
ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$ 94,532	\$ 257,180
FUND BALANCE	<u>22,644,661</u>	<u>23,548,177</u>
TOTAL	<u>\$22,739,193</u>	<u>\$23,805,357</u>

See notes to modified cash basis financial statements.



## BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND

### STATEMENTS OF INCOME, EXPENSES, AND CHANGE IN FUND BALANCE — MODIFIED CASH BASIS FOR THE YEARS ENDED DECEMBER 31, 2007 AND 2006

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	2007	2006
INCOME — Net investment income	<u>\$ 1,131,800</u>	<u>\$ 1,190,387</u>
EXPENSES:		
Litigation attorneys — fees and expenses	416,474	879,833
Research programs	25,567	1,296,246
Supervisory panel expenses	339,959	583,060
Trustees' fees and expenses	34,083	70,534
Notification expense	192,419	279,405
Professional fees	134,966	213,742
Other administrative expenses	<u>891,848</u>	<u>835,727</u>
Total expenses and benefit payments	<u>2,035,316</u>	<u>4,158,547</u>
DECREASE IN FUND BALANCE	(903,516)	(2,968,160)
FUND BALANCE — Beginning of year	<u>23,548,177</u>	<u>26,516,337</u>
FUND BALANCE — End of year	<u>\$22,644,661</u>	<u>\$23,548,177</u>

See notes to modified cash basis financial statements.

# BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND

## STATEMENTS OF CASH FLOWS — MODIFIED CASH BASIS FOR THE YEARS ENDED DECEMBER 31, 2007 AND 2006

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	2007	2006
CASH FLOWS FROM OPERATING ACTIVITIES:		
Decrease in fund balance	\$ (903,516)	\$ (2,968,160)
Adjustments to reconcile decrease in fund balance to net cash used in operating activities		
Decrease (increase) in other assets	(5,977)	43
Decrease in accounts payable and accrued expenses	<u>(162,648)</u>	<u>(592,663)</u>
Net cash used in operating activities	<u>(1,072,141)</u>	<u>(3,560,780)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of investments	(45,284,162)	(48,269,342)
Sale of investments	<u>46,256,589</u>	<u>51,200,469</u>
Net cash provided by investing activities	<u>972,427</u>	<u>2,931,127</u>
DECREASE IN CASH	(99,714)	(629,653)
CASH:		
Beginning of year	<u>447,973</u>	<u>1,077,626</u>
End of year	<u>\$ 348,259</u>	<u>\$ 447,973</u>

See notes to modified cash basis financial statements.

# **BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND**

## **NOTES TO MODIFIED CASH BASIS FINANCIAL STATEMENTS AS OF AND FOR THE YEARS ENDED DECEMBER 31, 2007 AND 2006**

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### **1. ORGANIZATION AND GENERAL INFORMATION**

The Bowling-Pfizer Heart Valve Litigation Settlement Fund (the "Fund") is the result of a settlement between Pfizer Inc. ("Pfizer") and its wholly owned subsidiary Shiley Incorporated ("Shiley") and a class of plaintiffs ("Plaintiffs") consisting of all persons who were alive on January 23, 1992, with a Bjork-Shiley Convexo-Concave (BSCC) heart valve still implanted, and their spouses on that date, except those persons who filed valid and timely requests for exclusion from the class.

The settlement required that Pfizer/Shiley pay a minimum of \$165 million to the Fund to settle the claims of the Plaintiffs. Certain provisions exist whereby Pfizer may be required to pay additional amounts to the Fund based on certain criteria as defined in the settlement. The minimum settlement is allocated between the "Patient Benefit Fund" (\$75 million) and the "Consultation Fund" (\$90 million).

The Patient Benefit Fund is to be used for: research and development of diagnostic techniques to identify implantees who may have a significant risk of strut fracture and to make such diagnostic techniques available to Plaintiff implantees; research concerning the characterization and/or reduction of the risks of valve replacement surgery; and payment of covered medical expenses for qualifying surgery to explant, due to the risk of strut fracture, a Plaintiff implantee's BSCC heart valve and replace it with another prosthetic heart valve.

The research activities of the Patient Benefit Fund are supervised by a Supervisory Panel (the "Panel"). The Panel, subject to Court approval, shall adopt and amend guidelines for valve replacement surgery. Also, the Panel will create a publicly accessible repository of information concerning the status of the research and the risks of valve fracture and of valve replacement. The Panel is made up of six members who are recognized scientific or medical experts and one member who is not a scientist or physician.

The Consultation Fund, initially \$80,000,000 for Plaintiff implantees, was intended to provide Plaintiff implantees with funds to obtain medical and psychological consultation as they deem best. It was to be divided equally among qualified Plaintiff implantees after paying or providing for fees and expenses to be paid out of the implantee portion of the Fund. In addition, \$10,000,000 was paid into the Fund which was paid, after fees and expenses, equally to all qualified Plaintiff spouses.

The terms of the settlement required Pfizer/Shiley to initially deposit \$12,500,000 into the Patient Benefit Fund. Additionally, beginning on the second anniversary of the final approval of the settlement, Pfizer/Shiley was required to make annual deposits into the Patient Benefit Fund of not less than \$6,250,000 until a total of \$75,000,000 had been paid.

Pfizer/Shiley paid \$80,000,000 to the Consultation Fund in 1992. In 1994, Pfizer/Shiley paid \$10,000,000 to the Consultation Fund and \$12,500,000 to the Patient Benefit Fund. Pfizer/Shiley also paid \$6,250,000 annually in 1996 through 2005 to the Patient Benefit Fund. Pfizer/Shiley made the last fund payment during 2005 to fulfill the \$165 million dollar settlement.

## 2. SIGNIFICANT ACCOUNTING POLICIES

**Basis of Accounting** — The Fund prepares its financial statements on the modified cash basis of accounting. Therefore, it records interest receivable for interest earned not yet received, taxes receivable (payable) (see Note 5), and accounts payable for expenses when incurred rather than when paid (modified cash basis). Under this basis all settlement payments by Pfizer/Shiley are recognized when received and all benefit payments and Plaintiffs' counsel fees and expenses are recognized when paid rather than when incurred. Also pension expense is recognized when paid rather than when incurred and no minimum liability is recorded.

**Settlement Payments** — All Consultation Fund claims submitted by each claimant were reviewed for qualification by the Fund and payments of qualified claims were approved by the Court.

**Litigation Attorneys, Fees, and Expenses** — Represents Court approved payments to Plaintiffs' counsel and to Public Citizen, Inc.

**Other Assets** — Other assets represent prepaid expenses for the Fund.

## 3. INVESTMENTS

Investments at December 31, 2007 and 2006, consist of short term (less than 6 month maturity) U.S. treasury bills and are carried at cost plus accrued interest. The market value of such investments was approximately \$22,297,000 and \$23,207,000, at December 31, 2007 and 2006, respectively.

## 4. OPERATING LEASES

The Fund leases its office facilities under an agreement classified as an operating lease from an unrelated party. Total future minimum lease payments due are as follows:

2008	\$ 64,163
2009	<u>16,151</u>
Total	<u>\$ 80,314</u>

## 5. TAX STATUS

For Federal income tax purposes, the Fund is treated as a taxable designated settlement fund under Section 468(B) of the Internal Revenue Code. The Fund is required to pay taxes on the excess of interest income earned over expenses incurred for the administration of the Fund. The settlement payments by Pfizer/Shiley, benefit payments, and payment of Plaintiffs' counsel fees and expenses are not taxable transactions.

In March 1996, the Fund requested a ruling from the Internal Revenue Service regarding the taxability of the Fund and the deductibility of certain disbursements from the Fund. In January 1997, the Fund received a favorable ruling regarding these issues and, consequently, recorded no tax provision for 2007 or 2006.

## **6. PENSION PLAN**

In October 2004, the Fund adopted a defined benefit pension plan (the "Plan") which became effective January 1, 2004. All employees of the Fund participate in the Plan. The Fund's cash basis contribution to the Plan was approximately \$220,000 and \$196,000 for the years ended December 31, 2007 and 2006. During 2007, the Fund approved the termination of the Plan. In February 2007, the Fund contributed \$220,000 as a final contribution to the Plan and in September 2007, the assets held by the Plan were rolled over into individual retirement accounts held by the Plan participants.

\* \* \* \* \*