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

ARTHUR RAY BOWLING, ET AL.,	:	N G 1 01 01 0
PLAINTIFF,	:	No. C-1-91-256
<b>v.</b>	:	JUDGE HERMAN J. WEBER,
PFIZER, INC. ET AL.,	:	SENIOR JUDGE
DEFENDANT.	:	
	:	

# NOTICE OF FILING OF THE TWENTY-SEVENTH REPORT OF THE SPECIAL MASTERS/TRUSTEES COVERING PERIOD FROM MAY 23, 2007 TO NOVEMBER 15, 2007

NOTICE IS HEREBY GIVEN to all counsel of record that the TWENTY-SEVENTH REPORT OF THE SPECIAL MASTERS/TRUSTEES COVERING PERIOD FROM MAY 23, 2007 TO NOVEMBER 15, 2007 is hereby filed with the Court.

Respectfully submitted,

/s/ Nancy A. Lawson
Nancy A. Lawson (0012699)
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth St.
Cincinnati, OH 45202
(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 : Judge Herman J. Weber,

LITIGATION : Senior Judge

#### TWENTY-SEVENTH REPORT OF THE SPECIAL MASTERS/TRUSTEES

**COVERING PERIOD FROM MAY 23, 2007 TO NOVEMBER 15, 2007** 

#### **SPECIAL MASTERS/TRUSTEES**

Hon. Robert L. Black, Jr. Peter J. Strauss, Esq.

#### **AGENDA**

#### TWENTY-SEVENTH REPORT OF THE SPECIAL MASTERS/TRUSTEES

In Re: Bowling-Pfizer Litigation

Case No. C-1-91-256

December 6, 2007 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.

#### **TABLE OF CONTENTS**

- A. Twenty-Seventh Report of the Special Masters/Trustees
- B. Appendices to Court Report
  - 1. Summary of 2007 Guidelines.
  - 2. Supervisory Panel Protocol to Monitor Issues Relating to the Guidelines.
  - 3. Update on the Status of the Supervisory Panel's Continuing Operation Plan.
  - 4. Summary of Research Expenditures Under the Supervisory Panel's Continuing Operation Plan and Schedules of the Research Projects.
  - 5. "Hit Report" regarding the Supervisory Panel's Website.
  - 6. Summary of the Status of Funding for the Settlement.
  - 7. Unaudited balance sheet as of October 31, 2007 and an unaudited statement of income and funds balance for the ten months ended October 31, 2007.
  - 8. Independent Auditors' Report for the year ended December 31, 2006.

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

IN RE: : Case No. <u>C-1-91-256</u>

BOWLING-PFIZER LITIGATION : Judge Herman J. Weber,

: Senior Judge

#### TWENTY-SEVENTH REPORT OF THE SPECIAL MASTERS/TRUSTEES

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

Your Special Masters/Trustees respectfully present their twenty-seventh periodic report, covering activities from May 23, 2007 to November 15, 2007. This report is submitted seventeen days prior to the status hearing before the Court scheduled for December 6, 2007.

#### I. PATIENT BENEFIT FUND

A. <u>Supervisory Panel.</u> The 2007 Guidelines along with a summary have been distributed to class members and physicians. A copy of the summary is attached as Appendix 1.

The Supervisory Panel has developed a protocol to insure that it remains aware of new developments which may impact the Guidelines. The protocol involves regular review of world-wide literature pertinent to heart valve research and diligent monitoring of reported events that occur to known class members. A copy of the protocol is attached hereto as Appendix 2.

The patient studies with the ACES device at the Ohio State University have been concluded and a final report was received in May, 2007. The imaging and acoustics committee was favorably impressed with the ACES work and has made a recommendation to the full panel for continued studies. The panel has considered the results of the ACES work and agrees that

there is sufficient promise in the technology to pursue additional work. The panel is currently working with ACES and others in an effort to resolve several issues prior to asking them to submit a formal proposal for additional follow-up work.

With regard to BioQuantetics, Dr. Edmond Rambod reported that the clinical trials at Cedars Sinai Medical Center were completed without the sponsorship or funding of the Trustees. Dr. Rambod is in the process of completing his report and will send a summary to the Panel when completed.

- B. <u>Guidelines.</u> The 2007 Guidelines along with a summary have been distributed to class members and physicians.
- C. <u>Research.</u> Our report on the status of the research program of the Supervisory Panel is set out in the attached Appendices 3 and 4.
- D. <u>Imaging.</u> Since the imaging program at Penn State resumed again, effective April 26, 2005, there have been nine imaging sessions for six implantees who may qualify for valve replacement surgery. Three implantees were imaged two times during this period.
- E. <u>Update on the Status of the Continuing Operation Plan.</u> Attached as Appendices 3 and 4 is an update on the status of the Supervisory Panel's Continuing Operation Plan.
- F. Repository. The Supervisory Panel maintains a publicly accessible repository of certain documents and information concerning the BSCC heart valve. The repository contains hard copy printouts of various items including, but not limited to, certain reports on the status and 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

<u>Bowling</u> Settlement Agreement, and other information. The repository is currently located at the Trustees' office.

In addition, the Trustees have made many of the documents in the repository available electronically in a database. Some of the information, such as published articles, however are not available for review on line due to copyright and other intellectual property concerns. The repository is currently being updated. To access the on-line repository, once it is updated, an individual need only contact the Trustees' office for the website address and a password.

G. <u>Website.</u> The Supervisory Panel's website continues to be found at 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 2007 Guidelines, the Settlement Agreement, Trustee Reports and a bibliography of relevant articles as well as other important information. A copy of the most recent "hit report" of the Supervisory Panel's website is attached to this Report as Appendix 5.

#### H. 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.

Since the date of the last Trustees' report on May 23, 2007, Pfizer Inc. paid \$260,000 US plus 273,074 Polish PLN for qualifying strut fracture benefits for a claim processed by the Claims Administrator. These benefit payments relate to a claim for an outlet strut fracture that occurred prior to May 23, 2007.

The total number of qualified claims received from the beginning are: 96 (73 foreign) qualified outlet strut fracture claims and 137 (55 foreign) qualified valve replacement surgery claims including 38 (16 foreign) qualified 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 October 31, 2007, the total balance of cash and cash equivalents was \$22,799,710. This amount takes into account net interest earned from January 28, 1992, through October 31, 2007 in the aggregate amount of \$26,390,092.

Attached as Appendix 6 are a summary of the status of funding for the Settlement and four related schedules.

Attached as Appendix 7 are the following: an unaudited balance sheet as of October 31, 2007 and an unaudited statement of income and funds balance for the ten months ended October 31, 2007 (which includes the budgeted amounts for expenses for the administrative office for the period January 1, 2007 through December 31, 2007).

Attached as Appendix 8 is a copy of the Independent Auditors' Report for the year ending December 31, 2006.

#### 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,

Hon. Robert L. Black, Jr.

Dated: November 15, 2007

Peter J. Strauss, Esq.

#### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this Twenty-Seventh Report of the Special Masters/Trustees Covering Period from May 23, 2007 to November 15, 2007, has been electronically sent to the following this 19<sup>th</sup> of November, 2007:

Stanley M. Chesley, Esq.
Fay E. Stilz, Esq.
Waite, Schneider, Bayless & Chesley Co., LPA
1513 PNC Tower
5 West Fourth Street
Cincinnati, OH 45201

Brian Wolfman, Esq. Public Citizen 1600 20th Street, NW Washington, D.C. 20009-1001

Jack B. Harrison, Esq. Frost Brown Todd LLC 2200 PNC Center 201 East Fifth Street. Cincinnati, OH 45202

James T. Capretz, Esq. 5000 Birch Street Suite 2500 Newport Beach, CA 92660

John T. Johnson, Esq. 55 Waugh Drive, Suite 505 Houston, TX 77007

Gregory Wallance, Esq. Kaye Scholer LLP 425 Park Avenue New York, NY 10022

/s/ Nancy A. Lawson
Nancy A. Lawson

## APPENDIX 1

### NOTICE TO BJORK- SHILEY CONVEXO-CONCAVE (BSCC) HEART VALVE CLASS MEMBERS AND THEIR PHYSICIANS

## Changes in the Guidelines for Determining Whether BSCC Class Members are Eligible for Monetary Benefits for Qualifying Valve Replacement Surgery

The Court appointed Supervisory Panel for the Bowling-Pfizer Settlement has continued to monitor mortality (death) and morbidity (serious illness) data for elective valve replacement surgery. Because of changes in surgical mortality and morbidity for elective valve replacement surgery the Panel has amended the guidelines for determining eligibility for monetary benefits for qualifying valve replacement surgery. The Court approved the 2007 Amended Valve Replacement Guidelines (2007 Guidelines) on April 18, 2007.

Since age is a factor in determining both the surgical risk and the fracture rate, for most Class Members the length of time they are eligible to receive monetary benefits in connection with qualifying valve replacement surgery is limited. To provide more flexibility for individuals to make their decision regarding valve replacement surgery, the 2007 Guidelines provide a decision zone to ensure that a Class Member who is potentially eligible to receive valve replacement surgery benefits has at least until July 18, 2009 in which to make the decision and have valve replacement surgery.

On the back of this page is "Benefits Provided Under the Bowling-Pfizer Settlement Agreement for a Qualifying BSCC Heart Valve Replacement Surgery." This explains the valve replacement surgery benefits to which the Class Member may be entitled.

To determine qualification for valve replacement surgery benefits, the Class Member, his or her doctor or other authorized representative must provide the valve serial number, along with the current age, gender and valve implant position of the patient, to the Claims Administrator. This may be accomplished by telephone to 800-977-0779 in the United States or Canada or to 00-1-513-421-3517 internationally (English only), by fax to 513-421-7696, by email to bowlingpfizer@fuse.net, via the internet at <a href="www.bowling-pfizer.com">www.bowling-pfizer.com</a>, or by regular mail to Claims Administrator, P.O. Box 3598, Cincinnati, Ohio 45201-3598, U.S.A.

A copy of the 2007 Guidelines is attached. While you are encouraged to read the entire document, be advised that Part I is a summary which may provide sufficient information to understand how to find out if the patient is qualified to receive valve replacement surgery benefits.

### Benefits Provided Under the Bowling-Pfizer Settlement Agreement for a Qualifying Bjork-Shiley Convexo-Concave (BSCC) Heart Valve Replacement Surgery

- 1. Medical Expenses: Payment of the usual and customary costs actually incurred by the patient for hospital care from admission for the valve replacement surgery through discharge, medical supplies during that period, and usual and customary fees of physicians and allied health professionals during that period and for a reasonable period thereafter following discharge, for any complications directly resulting therefrom, to the extent that the costs and fees for these services are not covered by a private health insurance carrier or health maintenance organization, governmental benefit or other third party payer. To receive this benefit, a patient must make all reasonable efforts to utilize or claim every other applicable kind of coverage, including available public or private health insurance. Proof of expenses is required to receive this benefit.
- 2. Out-of-pocket Expenses: A lump sum of \$38,000 for all miscellaneous costs and expenses relating to and following hospitalization (including travel and lodging expenses; care of family during hospitalization and recuperation; post-operative home care; miscellaneous other economic loss; etc.) No proof of expenses is required to receive this payment.
- 3. <u>Lost Income</u>: Reimbursement of actual lost income due to time lost from work during hospitalization and recuperation from the valve replacement surgery to the extent not covered by worker's compensation, sick pay, disability insurance or any other kind of coverage; up to a maximum of \$1,500 per week, for up to one year following the surgery.\* To receive this benefit, proof of loss is required.
- 4. <u>Disability or Death</u>: Alternative specified benefits are available if the valve recipient dies or becomes permanently and totally disabled as a result of the valve replacement surgery.

To receive the benefits set forth in paragraphs 2 through 4 above, a patient and his or her spouse and all other persons who may make a claim must agree to release all claims they might have relating to the removed BSCC heart valve. A patient may elect to reject these benefits and instead bring an individual legal action against Pfizer. However, if a patient chooses to bring a lawsuit against Pfizer, the patient will permanently lose any rights to these benefits. Also, any payment received on the patient's behalf under paragraph number 1 would be deducted from any award resulting from such legal action.

In addition, in the event that a patient has his or her BSCC heart valve replaced due to the risk of strut fracture and it is determined that one leg of the outlet strut of the valve was separated from the flange prior to the surgery, the patient would qualify for benefits under the Settlement Agreement. For this condition that some refer to as a "single leg fracture", the patient is referred to Class Counsel for further information about available benefits and options.

\*Compensation may be provided beyond one year in the event that a patient is partially disabled as a direct result of complications of the surgery and as a direct result of such partial disability continues to suffer economic loss in the form of diminished earning capacity.

TO QUALIFY FOR VALVE REPLACEMENT SURGERY BENEFITS UNDER THE SETTLEMENT AGREEMENT, THE SURGERY MUST BE DUE TO THE RISK OF STRUT FRACTURE AND MUST COMPLY WITH GUIDELINES FOR BSCC HEART VALVE REPLACEMENT AS ADOPTED FROM TIME TO TIME BY THE SUPERVISORY PANEL, WITH THE APPROVAL OF THE COURT.

APPENDIX 2

#### PROTOCOL FOR MONITORING ISSUES RELATING TO THE GUIDELINES

The 2007 Amended Guidelines Valve Replacement Guidelines were approved by the Court on April 18, 2007. The Supervisory Panel is establishing the following protocol to ensure it is aware of any issues which may impact the Guidelines. The Chair has appointed a sub-committee for monitoring guideline issues consisting of Tom Ivey, Michel Ibrahim and Donald Harrison.

#### 1. Monitoring the Literature.

Regular review of pertinent journals will be performed by various panel members as outlined below. Tom Ivey, Donald Harrison and Michel Ibrahim will meet with David Miller via conference call on a quarterly basis to report on the results of the monitoring. Any significant issues will be shared with all members of the Panel.

Tom Ivey will review:

The Society of Thoracic Surgeons Annuals of Cardiac Surgery
The Journal of Cardio-Thoracic Surgery
The European Journal of Cardio-Vascular Surgery

#### Donald Harrison will review:

The American Journal of Cardiology
The Journal of the American College of Cardiology
The New England Journal of Medicine
The Journal of the American Medical Association
The European Journal of Cardiology
Circulation

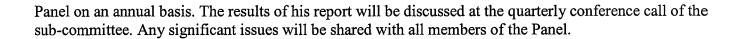
#### Michel Ibrahim will review:

The New England Journal of Medicine
The Journal of the American Medical association
The Lancet
Circulation
The Journal of Heart Valve Disease
The American Journal of Public Health
The American Journal of Epidemiology

Dr. Ibrahim will also conduct a periodic search of PubMed for any articles specifically mentioning BSCC heart valves.

#### 2. Review of the BSCC Research Database

An annual review of the updated BSCC Research Database, which is maintained by Pfizer, will be conducted by a consultant of the Panel. This will serve to validate the continued use of the risk factors and the values assigned to them as part of the guidelines formula. A report of this work will be will made to the



#### 3. Review of Reports of Fractures

The Panel will review the semi-annual reports of outlet strut fracture statistics submitted to the FDA by Pfizer. The Panel will review the quarterly report of the Australian and New Zealand patient registry. The data from these reports will be discussed by the sub-committee on a quarterly basis via conference call with any significant issues shared with the all Panel members.

#### 4. Passive Surveillance of the Major Cohorts

In addition to the Australian/New Zealand cohort, the other major cohorts which have been followed are the United States, the United Kingdom and the Dutch. Passive surveillance will ensure that no unexpected events pass unnoticed among the cohorts regarding fracture rates or important events which may have an impact on the guidelines.

- a. The U. S. cohort of patients registered with the Claims Administrator will be monitored through an annual review of the National Death Index to determine if any registered class members died. The staff of the Trustees office will conduct this review and report the results to the Panel for analysis.
- b. The UK cohort was last reviewed in 2004 and at that time there were 1,043 living BSCC patients. Of course, it is likely that number has decreased further. Contact has been made with Professor Kenneth Taylor who has monitored the UK cohort. He will soon retire and reports that UK Registry is being disbanded thus any follow up on this cohort will be limited to the updated data contained in the BSCC research database.
- c. The Dutch cohort was monitoring by contractual agreement with Utrecht University and Dr. Yolanda van der Graaf. The last cohort follow up study was completed in 2006 with the follow up period ending 12-31-2004. At that time, the living cohort with implanted valves numbered 467 and Dr. van der Graaf concluded and the Panel agreed that further follow up on the cohort will reveal no additional information as the cohort is too small to draw robust conclusions.

Any significant data from these follow ups will be discussed by the sub-committee when they meet on a quarterly basis via conference call with any significant issues shared with the all Panel members.

August, 2007

# APPENDIX 3

## <u>UPDATE ON THE STATUS OF THE OF CONTINUING OPERATION PLAN</u> OF THE SUPERVISORY PANEL, APPROVED BY THE COURT APRIL 28, 2005

The Court approved a Continuing Operation Plan (Plan) on April 28, 2005. The Plan set forth the activities and research the Panel would pursue. The Plan also provided a 20-year budget to ensure sufficient money is available to fund the Panel activities, the claims administration function and other needed support services for the Class. The following is an update on the status of the Plan.

The Plan is based on three critical premises which are provided below along with an update on the status of each.

- 1. The need to preserve funds with which to operate a Claims Administration office to support the Class for the next 20 years. Appendix 6 provides an update on actual expenditures compared to the anticipated budget through October 31, 2007 for this function and other functions involved in the administration of the Settlement.
- 2. <u>The need to maintain the Guidelines for Class member eligibility for surgical benefits.</u> The Court approved the 2007 Amended Valve Replacement Surgery Guidelines on April 18, 2007. The changes to the Guidelines can be summarized as follows:
  - a. The <u>surgical mortality and morbidity rates</u>, (that is the risk of death or disability as a result of having the valve replaced) have been changed.
  - b. The <u>mortality and morbidity threshold rate</u> estimates are now provided in yearly age increments rather than in five-year increments.
  - c. An <u>additional time period</u> for Class members to make a decision regarding explant surgery has been added.
  - d. The structure and the language of the Guidelines has been simplified for clarity

The 2007 Guidelines along with a summary have been distributed to Class members and physicians and can be located on the Bowling-Pfizer website.

The Panel has set up a protocol to ensure it remains aware of any new developments which may impact its Guidelines. In brief, this protocol involves regular review of world-wide literature pertinent to heart valve research and diligence in monitoring the reported events which may occur to known class members. The protocol entitled "Protocol for Monitoring Issues Relating to the Guidelines" can be found on the Bowling-Pfizer website.

3. The need to determine if one or more diagnostic devices to detect single leg separation of the BSCC valves in Class members can be put to use. When the Plan was approved the Panel had identified five projects with which to continue research and possible development of a device capable of reliably detecting the status of the BSCC heart valve in class members. Today, one of those projects, the Hershey Imaging program remains active. This program utilizes radiographic x-ray techniques which have been modified to specifically study BSCC heart valves. The technology can only be applied to the mitral valve and is available at no cost to class members who qualify for surgery benefits under the Guidelines. Other Class members can participate in this study on a self payment basis. Contact the Claims Administrator if you are interested in participating in this study.

Another research project which was completed in early 2007 produced promising results. In this series of studies, a small number of sheep were implanted with BSCC heart valves and researchers used passive acoustics technology to record and analyze the sound frequencies of the valve as it operated in the living sheep. They used a grouping of several highly sensitive sensors or microphones and placed them on the chest of the sheep in the manner of a stethoscope. They recorded and analyzed the signals to determine if the valve is intact or separated. Since the results of the sheep studies were promising, this group conducted an IRB approved study on volunteer class members implanted with BSCC heart valves. The results of these studies were also promising, but not conclusive as to the reliability of this possible diagnostic technique. The Panel is considering whether to recommend the sponsorship of additional development of this technology.

There was another researcher which conducted studies on the implanted sheep using a different technology in which the outlet strut of the BSCC heart valve was activated from the chest wall using an ultrasound burst of energy. The ensuing excitation of the outlet strut created sound frequencies which were analyzed to determine the status of the valve. The Panel stopped sponsoring this researcher in September, 2006. However, the researcher continued to work on this project and did conduct some clinical studies on a small number of volunteer class members in the spring of 2007. The Panel is waiting on a report of the results of these studies.

The Panel is not considering any other research projects at this time. It does have a protocol for making funding decisions on newly proposed research which was part of the Plan. This protocol is provided in the Summary of Continuing Operation Plan of the Supervisory Panel which can be found on the Bowling-Pfizer website.

## APPENDIX 4

#### Summary of Research expenditures since the approval of the Continuing Operation Plan (COP) (as of October 31, 2007)

Project	Budget from COP	Spent <sup>1</sup>	<u>Remainder</u>
ACES (Passive acoustics research)	500,000	511,328	(11,328)
BioSurg (sheep implantees)	100,000	176,107	(76,107)
BioQuantetics (Active acoustics research)	600,000	1,053,999	$(453,999)^2$
Cleveland Clinic (epidemiological data)	20,000	68,044	(48,044)
Guidelines notification	400,000 <sup>3</sup>	186,059	213,941
Hershey Imaging	160,000	71,392	88,608 <sup>4</sup>
IEI (International explant study)	0	25,487	(25,487)
Michigan State U. (EMAT research)	1,070,000	396,144	673,856 <sup>5</sup>
Pilot Testing Center	262,250	0	262,250
Testing Center	1,597,500	0	1,597,500
UCSD (sheep colony)	0	21,809	(21,809)
TOTALS	4,709,750	2,510,369	2,199,381

<sup>&</sup>lt;sup>1</sup> Some expenditures were not anticipated when the COP was approved thus not in the COP budget, but were later approved by the Court.

Includes the sale of equipment from the Trustees to BioQuantetics and Poly Tech, Inc.

<sup>&</sup>lt;sup>3</sup> The COP allowed for the potential of two guideline revisions with approximate notification costs of 200,000 per revision.

This program is ongoing and continues to receive class members for imaging.

<sup>&</sup>lt;sup>5</sup> Includes the sale of equipment from the Trustees to MSU and Sonic Tech, Inc.

## Trustees for the Bowling-Pfizer Heart Valve Settlement Funds Supervisory Panel Research Projects Initiated After January 31, 2005

					Billed		r 10/31/2007
Continuing Operation	Termination		ontract Amour		Through	Committed	•
Plan Future Projects	Date	Projected	Actual	Savings	10/31/2007	Unbilled	Cost Savings
Committed							
- Committee	•						
Michigan State University							
EMAT System		\$1,000,000	\$982,686	\$17,314	\$361,597	(1	
Sheep Study	6/30/2005	40,000	35,125	4,875	34,547		578
EMAT System Testing		30,000	30,000				30,000
BioQuantetics							
Ultrasound Burst-Spect.	12/31/2005	600,000	589,928	10,072	579,365		10,563
April 2005 Interim Funding	4/30/2005		25,535	(25,535)	24,918		617
January 2006 Interim Fund.	1/31/2006		50,827	(50,827)	50,818		9
March 2006 Addendum	4/30/2006		181,950	(181,950)	168,890		13,060
December 2006 Order	9/28/2006		280,008	(280,008)	230,008	(2	50,000
4050							
ACES Passive Accoustics	8/31/2005		5 250	(5.250)	5,259		
Passive Accousics	6/31/2005		5,259	(5,259)	5,259		
UCSD							
Maintain Research Sheep			21,809	(21,809)	21,809		
0							
Cleveland Clinic & STS		20.000	60.044	(40.044)	60.044		
Guidelines Data		20,000	68,044	(48,044)	68,044		
BioSurg		100,000	230,120	(130,120)	176,107		54,013
International Epidem. Inst.			35,000	(35,000)	25,487		9,513
Hershey Imaging		71,392	71,392		71,392		
riorency imaging		7 1,002	7 1,002		7 1,002		
ACES							
Passive Accoustics	1/31/2007	500,000	499,675	325	499,675	(3)	
First Addendum			6,394	(6,394)	6,394		
Ouddelines Netforker		400.000	400.050		400.050		
Guidelines Notification		186,059	186,059		186,059		
Total		\$2,547,450	\$3,299,811	(\$752,361)	\$2,510,369		\$789,442
Not Yet Committed							
140t Fet Committee	_						
Hershey Imaging		88,608	(1)	Savings listed	includes the	purchase of e	quipment from
				the Trustees b	-	tate (\$13,000	) and Sonic
Pilot Test		262,250		Tech (\$1,450)			
Testing Center		1,597,500	(2)	Savings listed	is the purcha	se of equipme	ent by Bio
,ge.		.,50.,000	` ,	Quantetics (\$2	•		•
Guidelines Notification		213,941	_		•	-	
Total		\$2,162,300	(3)	Professional of	liscount to da	te of \$123,530	0.93.
Tatal		£4 700 750					
Total		\$4,709,750	:				

## Trustees for the Bowling-Pfizer Heart Valve Settlement Funds Supervisory Panel Research Projects Ongoing At January 31, 2005

				Billed	Remainder	10/31/2007
Continuing Operation		Termination	Balance	2/1/2005		Completed
Plan Ongoing Projects		Date	1/31/2005	10/31/2007		Cost Savings
International Enidemistra. Loca		0/04/0005	<b>#05.040</b>	<b>#</b> 05.040		
International Epidemiology Inst.		8/31/2005	\$65,340	\$65,340		
Utrecht University		8/31/2005	63,500	63,500		
Devtrack Pty. Ltd.		8/31/2005	37,500	37,500		
International Epidemiology Study						
Penn State University		9/30/2005	103,159	95,889		\$7,270
Database of Mfg. Records			,,,,,,,	,		, , ,
-						
International Epidemiology Inst.	(1)	3/31/2005	26,362	26,362		
Patient Quality of Life Survey						
Utrecht University		12/22/2005	106,006	106,006		
Dutch Follow Up Study		12/22/2000	100,000	100,000		
Information Systems Laboratories,	(2)	2/25/2005	77,997	75,337		2,660
Noninvasive Assessment of						
Heart Valves						
Pio Overstation		2/20/2005	100 104	400 404		
BioQuantetics		2/28/2005	139,104	139,104		
Ultrasound Burst-Spectography						
Miromico, Inc.		4/7/2005	199,400	199,400		
Telemonitoring System						
UMC Utrecht		4/14/2005	37,947	37,947		
Electromagnetic Dip Meter						
Michigan State University		6/30/2005	238,722	227,016		11,706
Catheter Based and EMAT		5, 55, <b>2</b> 555		,		,
Detection of SLS						
Michigan State University		5/12/2005	157,111	107,188		49,923
EMAT Continuation Project						
Eindhoven University		4/18/2004	106,800	106,800		
Catheter Based Antenna		1/10/2001	100,000	100,000		
Cleveland Clinic		3/22/2005	73,134	69,234		3,900
3-D Motion of Heart Valves						
ACES		11/30/2004	2,100	2,100		
Evaluation of the Role of Crack		11/30/2004	۷, ۱۰۰	۷,۱۵۵		
Growth and Initiation						
Crown and Illination						

UAB Evaluate Approach to Improve Risk of Re-Operation	8/31/2005 7/18/2004	137,470 128,683	137,470 112,181	16,502
	8/31/2005	137,470	137,470	
ACES (7) Passive Accoustic Detection				
ACES Hook to Well Separation  (6)	9/30/2005	127,675	127,675	
ACES (5) Relationship of Engineering and Epidemiology	9/30/2005	132,050	132,050	
ACES Modeling of BSCC Heart Valves, Effect of Compliant Support Conditions  (4)	2/28/2005	45,200	45,200	
ACES (3) BSCC Valve Performance Modeling Using Element Free Techniques	2/28/2005	17,290	17,290	

Note - The 1/31/2005 balances are the amounts included in Schedule II of the Supervisory Panel's continuing operation plan.

- (1) The total charges of the researcher exceeded the amount that the court approved agreement allowed the Trustees to pay. The researcher absorbed this cost overrun as a "professional discount". In this case the professional discount was \$5,200.
- (2) Cost savings listed are due to the purchase of equipment from the Trustees by Information Systems Laboratories for \$1,500 and Sonic Tech for \$1,160.
- (3) Professional discount of \$3,050.
- (4) Professional discount of \$3,555.
- (5) Professional discount of \$7,450.
- (6) Professional discount of \$20,690.
- (7) Professional discount of \$53,151.

# APPENDIX 5

# Hit Report for Bowling-Pfizer.com

# Hit Report for Bowling-Pfizer.com

Total Visits	2391	1802	766
y i de la company de la compan			
Dally Visits	77	63	
Average Visit Length	11.8	6:29	7.03
o en	2:34	doubles the commence of the control	en e
International Visits	2.38%	2.06%	9,6998
OSTALLER FOR THE STATE OF STATE AND STATE OF STA	91.55%	92.86%	75.36%
Unknown Origin Visits	.6.06%	4.06%	20.94%
Unique Visitors	289	419	<b>/</b>
One-Time Visitors	275	217	255
Multiple Time Visitors	314	202	182
Top Downloads	Pamphlet - 46 times	2007 Guidelines - 32 times	Pamphiet - 30 times
	Amended 2003 - 33 times	Pamphlet - 23 times	Amended 2003 - 25 times
	Settlement - 32 times	Spanish Guidelines - 16 times	Doctor Letter 2003 - 24 times
	Guidelines - Final - 28 times	German Guidelines - 15 times	2003 Guidelines - 23 times
Doctor	Doctor Letter 2003 - 27 times	Notice to BSCC Patients - 14 times	Precautions - 19 times
ummary of Co	ımmary of Cont. Operating Plan - 20 times	Update - 14 times	Notice of Filing of 23rd Report - 18 times
JOUR MANAGEMENT OF THE PROPERTY OF THE PROPERT	French Translation - 18 times	Precautions - 14 times	Settlement - 17 times
Carlotte and the second	410	279	88
Ton Vieitore I coatione	Mountain View CA	Mountain View CA	Mountain View CA
	Alladena CA		Alladena
	Menlo Park. CA	Altadena. CA	Cincinnati, OH
では、100mmので	Bethesda, MD	Stamford, CT	Bethesda, MD
e de la companya de l	Cincinnati, OH	Bethesda, MD	Stamford, CT
THE PROPERTY OF THE PROPERTY O			
s viewing the site	United States	United States	United States
STATE OF THE PROPERTY OF THE P	Singapore	Japan	Singapore
olovija i semenjak (Tajak Kalifrantuma) (Kajak Kalifrantuma) (Tajak Kajak Ka	Poland	Germany	Germany
and the second of the second o	Netherlands	,Australia	(lal)
and the state of t	Germany	Seychelles	Poland
- Manager Control C	Seychelles	China	France
The state of the community of the state of t	Hong Kong	France	China
	Spain	Hong Kong	Cyprus

# Hit Report for Bowling-Pfizer.com

Z Eloco		August 2007	September 2007	October 2007
Massachusetts Ohio Ohio Connecticut New Jersey Wasitington Indiana Was Ariginia Google Google Take  Ariginia Live Live  Network (.net) - 1243 Commercial (.com) - 942 Commercial (.com) - 942 Commercial (.com) - 1243 Com - 12	Cirtae/IDenvirosa (ipaliima ella	S. Collection is	e in Julie	
Ohio Connecticut New Jersey Wastington Indiana Was Virginia Google Google Yañoo Live Live Network (.net) - 1243 Network (.net		Maryland		iO
Ohio Connecticut New Jersey Washington Indiana Was Virginia Google Google Live Live Live Commercial (com) - 942 Commercial (com) - 942 Commercial (com) - 642		Massachusetts	w. Maryland	Connection
New Jersey Washington Indiana Was Winginia Google Google Live Live Live  Network (.net) - 1243 Network (.net) - 643		Ohio	Connecticut	Maryland
New Jersey  Wasinington Indiana  Was  Google Google Jive Live Live Network (.net) - 1243 Network (.net) - Commercial (.com)		Connecticut	Virginia	Virginia
Maintina Was Indiana Was Surginia	and additionable of the contraction of the contract	New Jersey	Illinois	New York
Indiana Was  Was  Google  Google  Jive  Live  Live  Althory  Network (.net) - 1243  Network (.net)  Commercial (.commercial (.commercia		Washington	Indiana	Massachusetts
Google   Yaboo   Live   Live   Live   Sework (.net) - 1243   Network (.net   Commercial (.com) - 942   Commercial (.com)   C		Indiana <b>Viginia</b>	Washington New York	Pennsylvania <b>Colorado</b>
Google   Yahoo   Live				
Google Saloo Live Live Network (.net) - 1243				
Network (.net) - 1243  Oommercial (.com) - 942	Court Entire & Defende	eloud)	avi I	Gove
Live  Network (.net) - 1243  Normecial (.com), 942	Scalul Engling A Adelentice	Sougle Yanoo	elgoog)	SIGNO SIGNOS
Network (.net) - 1243		Live	Yahoo	Yahoo Live
Network (.net) - 1243				
Network (.net) - 1243 Commercial (.com) - 942				
Network (.net) - 1243 Commercial (com) - 942				
Network (.net) - 1243 Commercial (.com) - 942				
Commercial (com) -942	Top Domain Types	Network (.net) - 1243	Network (.net) - 1164	Network (.net) - 1070
Consideration of the state of t	(2) 「大きないできない。 では、これには、これには、これには、これには、これには、これには、これには、これに	Commercial (.com) - 942	Commercial (.com) - 600	Commercial (com) - 636
Organization (.org) - 3		Organization (.org) - 5	Education (.edu) - 4	Education (.edu) - 3
	<ul> <li>(2) Manager Man</li></ul>	Government ( gov) - 4	· Organization (.org) * 3	Government (.gov.) -
		Education (.edu) - 3	Government (.gov) - 1	Organization (.org)
<b>海羅羅 接続表記 の様の名詞 神中の人ものは 新教教法 第1年であり開発の人が基準を持ている。 1985年の第18日の日の日の日の日の日の日の日の日の日の日の日の日の日の日の日の日の日の日の</b>	は、一般のでは、これでは、これでは、これでは、これでは、これでは、これでは、これでは、これ			であっているなどのでは、これでは、これでは、これでは、これでは、これでは、これでは、これでは、これ

# APPENDIX 6

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

#### Status of Funding for the Settlement

#### October 31, 2007

#### 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 October 31, 2007.

#### 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 3 herewith presents a comparison of the actual administration expenses for the period January 1, 2005 through October 31, 2007. As the schedule indicates, the actual expenses are under the budgeted expenses by \$1,658,100.

#### Status of Research Expenses

Schedule 4 herewith presents an overall comparison of the actual research expenses with those set out in the COP. See Appendix 4 for more detailed information regarding the research expenses.

#### 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 is complete and substantially all of the costs are included in the October 31, 2007 amount.

#### 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 October 31, 2007.

At October 31, 2007 there were additional unallocated funds in the amount of \$2,937,600 principally representing interest income on the investment of funds in U.S. Treasury bills. anticipated budget did not consider any income from invested nor increases in expenses due to inflation, 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 To date the expenses have been within the amounts as 5.318%. 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 1,571 BSCC heart valve implantees living in January 2025.

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

#### Summary of Allocation of Available Funds

October 31, 2007

	Budget Per COP	Actual Through 10/31/07	Remaining Amount
ADMINISTRATION EXPENSES	\$17,800,000	\$4,313,200	\$13,486,800(1)
RESEARCH EXPENSES	6,331,200	4,254,800	2,076,400(2)
SUPERVISORY PANEL - FEES AND EXPENSES	3,000,000	1,828,700	1,171,300
GUIDELINES NOTIFICATION	400,000	186,100	213,900
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 - 10/31/07		(69,100)	69,100
UNALLOCATED PER COP	530,100		530,100
ADDITIONAL UNALLOCATED-PRINCIPALLY INTEREST INCOME 2/1/05-10/31/07		(2,937,600)	2,937,600
	\$31,719,500	\$8,913,700	<u>\$22,805,800</u> (3)

<sup>(1)-</sup>See Schedule 2 herewith.

<sup>(2)-</sup>See Schedule 4 herewith and Appendix 4.

<sup>(3)-</sup>Total assets at October 31, 2007.

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS Administration Expenses - 2005 through 2024

	Budget 2005 thru 2024	Actual 1/1/05-10/31/07	Remaining Amount thru 2024
CLASS & SPECIAL COUNSEL	\$4,500,000	\$1,192,900	\$ 3,307,100
PUBLIC CITIZEN	400,000	69,000	331,000
TRUSTEES	2,000,000	192,800	1,807,200
COUNSEL FOR TRUSTEES	3,000,000	467,200	2,532,800
ADMINISTRATOR/ CLAIMS ADMINISTRATOR	3,000,000	1,230,800	1,769,200
ADMINISTRATIVE OFFICE	4,500,000	1,134,400	3,365,600
AUDIT	400,000	26,100	373,900
TOTAL	\$17,800,000	\$4,313,200	\$13,486,800

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS Administration Expenses - 2005 through 2024

	January 1,	2005 - October	31, 2007
	Budget	Actual	<b>Under Budget</b>
CLASS & SPECIAL COUNSEL	\$1,700,000	\$1,192,900(1)	\$ 507,100
PUBLIC CITIZEN	120,000	69,000	51,000
TRUSTEES	566,700	192,800(1)	373,900
COUNSEL FOR TRUSTEES	1,133,300	467,200(1)	666,100
ADMINISTRATOR/ CLAIMS ADMINISTRATOR	1,258,600	1,230,800	27,800
ADMINISTRATIVE OFFICE	1,152,700	1,134,400	18,300
AUDIT	40,000	26,100	13,900
TOTAL	<u>\$5,971,300</u>	<u>\$4,313,200</u>	<u>\$1,658,100</u>

<sup>(1) -</sup>Does not include unbilled fees and expenses for October 2007.

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS Continuing Operation of the Supervisory Panel

# Research Expenses

	Budget Per COP	Actual thru 10/31/07	Remaining Amount
Ongoing research	\$2,021,500	\$1,930,500	\$ 91,000
New research - Diagnostic device: Committed thru 10/31/07 Not yet committed Committed-not in COP	2,270,000 1,859,700	1,575,200 609,700	694,800 1,859,700 (609,700)
New research - Guidelines and Epidemiology	20,000	68,000	(48,000)
Hershey imaging program	160,000	71,400	88,600
	\$4,309,700	\$2,324,300	\$1,985,400
TOTAL	<u>\$6,331,200</u>	<u>\$4,254,800</u>	\$2,076,400

# APPENDIX 7

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

## BALANCE SHEET

## AS OF OCTOBER 31, 2007

## UNAUDITED

## **ASSETS**

CASH	\$	63,452
U.S. TREASURY BILLS	22	,736,258
OTHER ASSETS		6,080
	\$ 22	<u>,805,790</u>
LIABILITIES AND FUNDS BALANCE		
ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$	69,142
FUNDS BALANCE	22	,736,648

\$ 22,805,790

# TRUSTEES FOR THE BOWLING-PFIZER HEART VALVE SETTLEMENT FUNDS

# STATEMENT OF INCOME AND FUNDS BALANCE

### FOR THE TEN MONTHS ENDED OCTOBER 31, 2007

### UNAUDITED

INVESTMENT INTEREST INCOME	\$ 955,468
RESEARCH PROGRAMS - COSTS	17,194
LITIGATION ATTORNEYS - FEES & EXPENSES	306,536
EXPENSES:	
Supervisory Panel Trustees' fees and expenses Professional fees Administrative office Notification expenses	301,506(1) 26,523 90,450 748,621(1) 186,059
Total	1,353,159
NET CHANGE IN FUNDS BALANCE	(721,421)
FUNDS BALANCE, DECEMBER 31, 2006	23,458,069(2)
FUNDS BALANCE, SEPTEMBER 30, 2007	\$ 22,736,648

- (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

	BUDGET	ACTUAL	
	1/1/07-12/31/07	1/1/	07-10/31/07
SUPERVISORY PANEL:			
Panel members' compensation		\$	262,320
Consultants' compensation			25,094
Travel and incidental expense	s		4,498
Miscellaneous			9,594
Total		\$	301,506
ADMINISTRATIVE OFFICE:			
Rents	\$ 68,000	\$	53,153
Office payroll	457,000	т	360,451
Payroll taxes	25,000		22,456
Pension plan	220,000		220,000
Other employee benefits	95,000		74,525
Outside services	12,000		9,508
Printing and postage	6,000		2,843
General insurance	3,000		, 853
Telephone	9,000		5,800
Office supplies and expense	6,000		2,908
Miscellaneous	6,000		549
Administrative services incom	e (5,000)		(4,425)
Total	<u>\$ 902,000</u>	<u>\$</u>	748,621

# APPENDIX 8

# Bowling-Pfizer Heart Valve Litigation Settlement Fund

Financial Statements — Modified Cash Basis as of and for the Years Ended December 31, 2006 and 2005, and Independent Auditors' Report





Deloitte & Touche LLP 250 East Fifth Street Suite 1900 P.O. Box 5340 Cincinnati, OH 45201-5340

Tel: +1 513 784 7100 www.deloitte.com

# **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, 2006 and 2005, 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, 2006 and 2005, 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.

November 8, 2007

Debitte & Tauche LIP

STATEMENTS OF ASSETS, LIABILITIES, AND FUND BALANCE — MODIFIED CASH BASIS AS OF DECEMBER 31, 2006 AND 2005

ASSETS	2006	2005
CASH	\$ 447,973	\$ 1,077,626
INVESTMENTS	23,357,384	26,288,511
OTHER ASSETS	·····	43
TOTAL	\$23,805,357	\$27,366,180
LIABILITIES AND FUND BALANCE		
ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$ 257,180	\$ 849,843
FUND BALANCE	23,548,177	26,516,337
TOTAL	\$23,805,357	\$27,366,180

See notes to modified cash basis financial statements.

# STATEMENTS OF INCOME, EXPENSES, AND CHANGE IN FUND BALANCE — MODIFIED CASH BASIS FOR THE YEARS ENDED DECEMBER 31, 2006 AND 2005

	2006	2005
INCOME:		
Settlement payments by Pfizer/Shiley		\$ 6,250,000
Net investment income	\$ 1,190,387	743,412
Total income	1,190,387	6,993,412
EXPENSES:		
Litigation attorneys — fees and expenses	879,833	
Research programs	1,296,246	2,963,438
Supervisory panel expenses	583,060	1,000,300
Trustees' fees and expenses	70,534	95,695
Notification expense	279,405	6,784
Professional fees	213,742	189,011
Other administrative expenses	835,727	766,330
Total expenses and benefit payments	4,158,547	5,021,558
(DECREASE) INCREASE IN FUND BALANCE	(2,968,160)	1,971,854
FUND BALANCE — Beginning of year	26,516,337	24,544,483
FUND BALANCE — End of year	\$23,548,177	\$26,516,337

See notes to modified cash basis financial statements.

# STATEMENTS OF CASH FLOWS — MODIFIED CASH BASIS FOR THE YEARS ENDED DECEMBER 31, 2006 AND 2005

	2006	2005
CASH FLOWS FROM OPERATING ACTIVITIES: Increase (decrease) in fund balance Adjustments to reconcile increase (decrease) in fund balance to net cash provided by (used in) operating activities	\$ (2,968,160)	\$ 1,971,854
Decrease in other assets	43	9,971
Decrease in accounts payable and accrued expenses	(592,663)	(532,879)
Net cash (used in) provided by operating activities	(3,560,780)	1,448,946
CASH FLOWS FROM INVESTING ACTIVITIES: Purchase of investments Sale of investments	(48,269,342) 51,200,469	(49,458,121) 48,327,429
Net cash provided by (used in) investing activities	2,931,127	(1,130,692)
(DECREASE) INCREASE IN CASH	(629,653)	318,254
CASH: Beginning of year	1,077,626	759,372
End of year	\$ 447,973	\$ 1,077,626

See notes to modified cash basis financial statements.

# NOTES TO MODIFIED CASH BASIS FINANCIAL STATEMENTS AS OF AND FOR THE YEARS ENDED DECEMBER 31, 2006 AND 2005

## 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 requires 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 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 is required to make annual deposits into the Patient Benefit Fund of not less than \$6,250,000 until a total of \$75,000,000 has 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 represents prepaid expenses, office furniture, and computer equipment used by the Fund.

#### 3. INVESTMENTS

Investments at December 31, 2006 and 2005, 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 \$23,207,000 and \$26,236,000, at December 31, 2006 and 2005, 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:

2007 2008 2009	•	\$ 63,145 64,163 16,151
Total		\$ 143,459

#### 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 2006 or 2005.

### 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 \$196,000 and \$160,000 for the years ended December 31, 2006 and 2005. In June 2006, the Fund made a final payment for the contribution required for 2005 of \$14,521.

## 7. SUBSEQUENT EVENT

During 2007, the Fund approved the termination of the Plan. During February 2007, the Fund contributed \$220,000 as a final contribution to the Plan. During September 2007, the assets held by the Plan were rolled over into individual retirement accounts for the Plan participants.

\*\*\*\*