

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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TWENTY-FIFTH REPORT OF THE SPECIAL MASTERS/TRUSTEES  
COVERING PERIOD FROM MAY 24, 2006 TO NOVEMBER 21, 2006

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SPECIAL MASTERS/TRUSTEES

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

AGENDA

TWENTY-FIFTH REPORT OF THE SPECIAL MASTERS/TRUSTEES

In Re: Bowling-Pfizer Litigation

Case No. C-1-91-256

December 7, 2006  
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-Fifth Report of the Special Masters/Trustees
- B. Appendices to Court Report
  - 1. Schedule of ongoing research projects.
  - 2. "Hit Report" regarding the Supervisory Panel's Website.
  - 3. Unaudited balance sheet as of October 31, 2006 and an unaudited statement of income and funds balance for the ten months ended October 31, 2006.
  - 4. Independent Auditors' Report for the year ended December 31, 2005.

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SOUTHERN DISTRICT OF OHIO  
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**TWENTY-FIFTH 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 twenty-fifth periodic report, covering activities from May 24, 2006 to November 21, 2006. This report is submitted sixteen days prior to the status hearing before the Court scheduled for December 7, 2006.

**I. PATIENT BENEFIT FUND**

A. Supervisory Panel. The Supervisory Panel has not met as a whole panel since October 31, 2005, but has had numerous committee meetings. Specifically, the Guidelines Committee has been very active on the revision to the 2003 Amended Guidelines. The work has been done largely through conference calls with the Guidelines Committee, the Supervisory Panel and Dr. William Blot and Dr. Ron

Brookmeyer. A Motion to Approve 2006 Amended Valve Replacement Guidelines was filed with the Court on November 2, 2006.

The Supervisory Panel decided in September 2006 to terminate the research being conducted at BioQuantetics.

The patient studies with the ACES device are currently being conducted at the Ohio State University.

B. Guidelines. The Panel has completed a revision to the 2003 Guidelines as discussed above.

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, six implantees (one was imaged twice) who may qualify for replacement surgery have been imaged.

E. Repository. The Supervisory Panel continues to maintain 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. Brookmeyer of his statistical analysis, the Bowling 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 which can be accessed through the internet at [www.bowling-pfizer.com/repository](http://www.bowling-pfizer.com/repository). Individuals are able to search for information using descriptive words. Some of the information, such as published articles, are not available for review online due to copyright and other intellectual property concerns. To access the online repository, an individual need only contact the Trustees' office for the website location and a password. The Trustees have placed an announcement on its website providing class members and other interested individuals with information about the electronic database.

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 2003 Amended Guidelines, a copy of the Settlement Agreement, Trustee Reports and a bibliography of relevant articles as well as other important information.

As noted above, an announcement has been placed on the website explaining that many of the documents contained in the document repository are now available on-line. Further, a copy of the most recent "hit report" of the Supervisory Panel's website is attached

to this Report as Appendix 2.

The website was amended to allow for Class Registration on the website in thirteen (13) different languages, including English.

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.

Since the date of the last Trustees' report on May 24, 2006, there has been one reported outlet strut fracture. This event has not yet been confirmed.

The total number of qualified claims received from the beginning are: 95 (72 foreign) qualified outlet strut fracture claims and 137 (55 foreign) qualified valve replacement surgery claims including 38 (16 foreign) qualified single leg fracture claims.

In an effort to locate unregistered class members, a notice was published in 7 foreign and 13 U.S. newspapers. In addition, the notice was placed on the domestic and foreign newswires once a month for four consecutive months. To date there have been 91 responses, resulting in the registration of 7 class members. Most of the responses are from class members who have already registered or from persons who are not class members. In addition, the Canadian Shiley Patient Notification and Registration System mailed

a notice to approximately 360 implantees.

The office of the Claims Administrator continues to fulfill requests to calculate estimated annual fracture rates under the 2003 Amended Guidelines. In addition, the office of the Claims Administrator continues to respond to other inquiries from and on behalf of Class Members.

## II. FINANCIAL INFORMATION

At October 31, 2006, the total balance of cash and cash equivalents was \$24,494,219. This amount takes into account net interest earned from January 28, 1992 through October 31, 2006 in the aggregate amount of \$25,226,232.

Attached as Appendix 3 are the following: an unaudited balance sheet as of October 31, 2006 and an unaudited statement of income and funds balance for the ten months ended October 31, 2006 (which includes the budgeted amounts for expenses for the administrative office for the period January 1, 2006 through December 31, 2006).

Attached as Appendix 4 is a copy of the Independent Auditors' Report for the year ending December 31, 2005.

## 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.



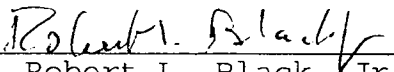
#### IV. APPROVALS

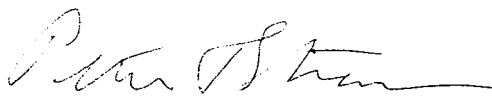
Your honor, the Special Masters/Trustees request that the Court:

- 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,

Dated: November<sup>21</sup>\_\_, 2006

  
Hon. Robert L. Black, Jr.

  
Peter J. Strauss, Esq.

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## APPENDIX 1

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

Continuing Operation Plan Future Projects	Termination Date	Contract Amounts			Billed Through 9/30/2006	Remainder 9/30/2006	
		Projected	Actual	Savings		Committed Unbilled	Completed Cost Savings
<b>Committed</b>							
Michigan State University							
EMAT System	11/12/2006	\$1,000,000	\$982,686	\$17,314	\$376,047		\$606,639
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
ACES							
Passive Accoustics	8/31/2005		5,259	(5,259)	5,259		
UCSD							
Maintain Research Sheep			21,809	(21,809)	21,809		
Cleveland Clinic & STS							
Guidelines Data		20,000	68,044	(48,044)	68,044		
BioSurg		100,000	230,120	(130,120)	176,065	54,055	
International Epidem. Inst.			35,000	(35,000)	24,162	10,838	
Hershey Imaging		43,219	43,219		43,219		
ACES							
Passive Accoustics	11/8/2006	500,000	499,675	325	348,989	150,686	
<b>Total</b>		<b>\$2,333,219</b>	<b>\$2,799,178</b>	<b>(\$465,959)</b>	<b>\$1,922,133</b>	<b>\$215,579</b>	<b>\$661,466</b>
<b>Not Yet Committed</b>							
Hershey Imaging		116,781					
Pilot Test		262,250					
Testing Center		1,597,500					
Guidelines Notification		400,000					
<b>Total</b>		<b>\$2,376,531</b>					
<b>Total</b>		<b>\$4,709,750</b>					

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

Continuing Operation Plan Ongoing Projects	Termination Date	Balance 1/31/2005	Billed 2/1/2005 9/30/2006	Remainder 9/30/2006	
				Committed Unbilled	Completed Cost Savings
International Epidemiology Inst. Utrecht University	8/31/2005	\$65,340	\$65,340		
Devtrack Pty. Ltd. International Epidemiology Study	8/31/2005	63,500	63,500		
	8/31/2005	37,500	37,500		
Penn State University Database of Mfg. Records	9/30/2005	103,159	95,889		\$7,270
International Epidemiology Inst. Patient Quality of Life Survey	(1) 3/31/2005	26,362	26,362		
Utrecht University Dutch Follow Up Study	12/22/2005	106,006	106,006		
Information Systems Laboratories, Noninvasive Assessment of Heart Valves	2/25/2005	77,997	77,997		
BioQuantetics Ultrasound Burst-Spectrography	2/28/2005	139,104	139,104		
Miromico, Inc. Telemonitoring System	4/7/2005	199,400	199,400		
UMC Utrecht Electromagnetic Dip Meter	4/14/2005	37,947	37,947		
Michigan State University Catheter Based and EMAT Detection of SLS	6/30/2005	238,722	227,016		11,706
Michigan State University EMAT Continuation Project	5/12/2005	157,111	107,188		49,923
Eindhoven University Catheter Based Antenna	4/18/2004	106,800	106,800		
Cleveland Clinic 3-D Motion of Heart Valves	3/22/2005	73,134	69,234		3,900
ACES Evaluation of the Role of Crack Growth and Initiation	11/30/2004	2,100	2,100		

ACES BSCC Valve Performance Modeling Using Element Free Techniques	(2)	2/28/2005	17,290	17,290	
ACES Modeling of BSCC Heart Valves, Effect of Compliant Support Conditions	(3)	2/28/2005	45,200	45,200	
ACES Relationship of Engineering and Epidemiology	(4)	9/30/2005	132,050	132,050	
ACES Hook to Well Separation	(5)	9/30/2005	127,675	127,675	
ACES Passive Accoustic Detection	(6)	8/31/2005	137,470	137,470	
UAB Evaluate Approach to Improve Risk of Re-Operation		7/18/2004	128,683	112,181	16,502
<b>TOTAL</b>			<b>\$2,022,550</b>	<b>\$1,933,249</b>	<b>\$0 \$89,301</b>

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) Professional discount of \$3,050.
- (3) Professional discount of \$3,555.
- (4) Professional discount of \$7,450.
- (5) Professional discount of \$20,690.
- (6) Professional discount of \$53,151.

**APPENDIX 2**

# Hit Report for Bowling-Pfizer.com

	June 2006	July 2006	August 2006
Total Visits	1136	1027	1405
Average Daily Visits	37	33	45
Average Visit Length	7:40	9:55	5:38
Median Visit Length	1:18	2:52	0:46
International Visits	6.37%	4.08%	6.40%
US Visits	79.38%	78.18%	79.07%
Unknown Origin Visits	15.24%	17.72%	14.51%
Unique Visitors	464	346	526
One-Time Visitors	332	258	399
Multiple-Time Visitors	132	88	127
Top Downloads	Amended 2003 - 78 times Class Letter 2003 - 39 times Notice of filing 23 report - 35 times Settlement - 33 times Doctor Letter 2003 - 28 times Precautions - 18 times Legal Notice to Class - 17 times	Update - 27 times Settlement - 26 times Pamphlet - 25 times Haynes - 19 times Doctor Letter 2003 - 16 times Guidelines - 15 times Notice of Filing 23 Report - 13 times	Amended 2003 - 48 times 17th Report - 30 times Pamphlet - 23 times Settlement - 22 times Notice of Filing 23 Report - 22 times German Translation - 20 times Haynes - 20 times
Total Downloads	402	258	307
Top Visitors Locations	Reston, VA Altadena, CA Redmond, WA Cincinnati, OH Menlo Park, CA	Redmond, WA Cincinnati, OH Menlo Park, CA Altadena, CA Reston, VA	Mountain View, CA Cincinnati, OH Reston, VA Menlo Park, CA Altadena, CA
Countries viewing the site	United States United Kingdom Poland Belgium Italy Australia Seychelles Canada	United States Italy United Kingdom Seychelles Netherlands Belgium Taiwan Switzerland	United States United Kingdom Canada Switzerland Poland Germany United Arab Emirates Australia

# Hit Report for Bowling-Pfizer.com

June 2006

July 2006

August 2006

## States/Provinces viewing site

California	Washington	California
Virginia	Ohio	Ohio
Washington	California	Virginia
Ohio	Virginia	Connecticut
Tennessee	New York	Tennessee
New York	D.C.	Massachusetts
Maryland	Texas	Texas
Massachusetts	Illinois	New York
Connecticut	Connecticut	Ontario

## Search Engine & Reference -

MSN	MSN	Google
Ask	Google	Microsoft Live
Inktoni	Inktoni	Healthline
Healthline	Healthline	Yahoo
Google		

## Top Domain Types

Commercial (.com) 744	Commercial (.com) 646	Commercial (.com) 858
Network (.net) 166	Network (.net) 161	Network (.net) 257
Organization (.org) 5	Education (.edu) 11	Government (.gov) 9
Education (.edu) 2	Organization (.org) 4	Education (.edu) 9
	Government (.gov) 2	Organization (.org) 5
	Military (.mil) 2	



# Hit Report for Bowling-Pfizer.com

	July 2006	August 2006	September 2006
Total Visits	1027	1406	1820
Average Daily Visits	33	45	60.00
Average Visit Length	9:55	5:38	9:24
Median Visit Length	2:52	0:46	3:14
International Visits	4.08%	8.40%	5.76%
US Visits	78.18%	79.07%	69.72%
Unknown Origin Visits	17.72%	14.51%	24.50%
Unique Visitors	346	526	472
One-Time Visitors	258	399	337
Multiple-Time Visitors	88	127	135
Top Downloads	Update - 27 times Settlement - 26 times Pamphlet - 25 times Haynes - 19 times Doctor Letter 2003 - 18 times Guidelines - 15 times Notice of Filing 23 Report - 13 times	Amended 2003 - 48 times 17th Report - 30 times Pamphlet - 23 times Settlement - 22 times Notice of Filing 23 Report - 22 times German Translation - 20 times Haynes - 20 times	Pamphlet - 77 times Amended 2003 - 39 times Notice of Filing of 23 Report - 29 times Important Update - 27 times Settlement - 22 times Spanish Guidelines - 19 times Doctor Letter 2003 - 18 times
Total Downloads	258	307	376
Top Visitors Locations	Redmond, WA Cincinnati, OH Menlo Park, CA Altadena, CA Reston, VA	Mountain View, CA Cincinnati, OH Reston, VA Menlo Park, CA Altadena, CA	Mountain View, CA San Francisco, CA Altadena, CA Cincinnati, OH Reston, VA
Countries viewing the site	United States Italy United Kingdom Seychelles Netherlands Belgium Taiwan Switzerland	United States United Kingdom Canada Switzerland Poland Germany United Arab Emirates Australia	United States Slovak Republic China Japan Poland Italy Germany France

# Hit Report for Bowling-Pfizer.com

July 2006

August 2006

September 2006

## States/Provinces viewing site

Washington	California	California
Ohio	Ohio	Ohio
California	Virginia	Virginia
Virginia	Connecticut	New York
New York	Tennessee	Connecticut
D.C.	Massachusetts	Colorado
Texas	Texas	Tennessee
Illinois	New York	Pennsylvania
Connecticut	Ontario	Washington

## Search Engine & Reference -

MSN	Google	Looksmart
Google	Microsoft Live	Microsoft Live
Inktomi	Healthline	Google
Healthline	Yahoo	Ask
		Inktomi

## Top Domain Types

Commercial (.com) 646	Commercial (.com) 858	Commercial (.com) 1039
Network (.net) 151	Network (.net) 257	Network (.net) 248
Education (.edu) 11	Government (.gov) 9	Education (.edu) 9
Organization (.org) 4	Education (.edu) 9	Organization (.org) 4
Government (.gov) 2	Organization (.org) 5	Government (.gov) 1
Military (.mil) 2		

## APPENDIX 3

TRUSTEES FOR THE BOWLING-PFIZER  
HEART VALVE SETTLEMENT FUNDS

BALANCE SHEET

AS OF OCTOBER 31, 2006

UNAUDITED

ASSETS

CASH	\$ 318,392
U.S. TREASURY BILLS	24,175,827
OTHER ASSETS	<u>6,040</u>
	<u>\$ 24,500,259</u>

LIABILITIES AND FUNDS BALANCE

ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$ 314,353
FUNDS BALANCE	<u>24,185,906</u>
	<u>\$ 24,500,259</u>

TRUSTEES FOR THE BOWLING-PHILLIPS  
HEART VALVE SETTLEMENT FUNDS

STATEMENT OF INCOME AND FUNDS BALANCE

FOR THE TEN MONTHS ENDED OCTOBER 31, 2006

UNAUDITED

INVESTMENT INTEREST INCOME	\$ 981,994
RESEARCH PROGRAMS - COSTS	<u>928,421</u>
LITIGATION ATTORNEYS - FEES & EXPENSES	<u>861,394</u>
EXPENSES:	
Supervisory Panel	522,991 (1)
Trustees' fees and expenses	59,584
Professional fees	142,764
Administrative office	503,343 (1)
Notification expenses	<u>279,405</u>
Total	<u>1,508,087</u>
NET CHANGE IN FUNDS BALANCE	(2,315,908)
FUNDS BALANCE, DECEMBER 31, 2005	<u>26,501,814</u>
FUNDS BALANCE, OCTOBER 31, 2006	<u>\$ 24,185,906</u>

(1) - See Schedule 1 herewith.

TRUSTEES FOR THE BOWLING-PFIZER  
HEART VALVE SETTLEMENT FUNDS

SCHEDULE OF EXPENSES  
UNAUDITED

	<u>BUDGET</u> <u>1/1/06-12/31/06</u>	<u>ACTUAL</u> <u>1/1/06-10/31/06</u>
SUPERVISORY PANEL:		
Panel members' compensation		\$ 429,800
Consultants' compensation		66,977
Travel and incidental expenses		19,855
Miscellaneous		<u>6,359</u>
Total		<u>\$ 522,991</u>
ADMINISTRATIVE OFFICE:		
Rents	\$ 73,000	\$ 56,313
Office payroll	449,000	344,010
Payroll taxes	25,000	20,751
Pension plan	176,000	
Other employee benefits	88,000	66,006
Outside services	12,000	5,552
Printing and postage	6,000	2,748
General insurance	3,000	2,905
Telephone	9,000	7,118
Office supplies and expense	6,000	2,060
Depreciation	3,000	42
Miscellaneous	6,000	935
Administrative services income	<u>(5,000)</u>	<u>(5,097)</u>
Total	<u>\$ 851,000</u>	<u>\$ 503,343</u>

## APPENDIX 4

## 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, 2005 and 2004, and the related statements of income, expenses and benefit payments, and change in fund balance—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, 2005 and 2004, and its income, expenses and benefit payments, and change in fund balance for the years then ended, on the basis of accounting described in Note 2.

*Deloitte & Touche LLP*

October 16, 2006



## BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND

### STATEMENTS OF ASSETS, LIABILITIES, AND FUND BALANCE—MODIFIED CASH BASIS AS OF DECEMBER 31, 2005 AND 2004

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	2005	2004
<b>ASSETS</b>		
CASH	\$ 1,077,626	\$ 759,372
INVESTMENTS	26,288,511	25,157,819
OTHER ASSETS	<u>43</u>	<u>10,014</u>
TOTAL	<u>\$27,366,180</u>	<u>\$25,927,205</u>
 <b>LIABILITIES AND FUND BALANCE</b>		
ACCOUNTS PAYABLE AND ACCRUED EXPENSES	\$ 849,843	\$ 1,382,722
FUND BALANCE	<u>26,516,337</u>	<u>24,544,483</u>
TOTAL	<u>\$27,366,180</u>	<u>\$25,927,205</u>

See notes to modified cash basis financial statements.

## BOWLING-PFIZER HEART VALVE LITIGATION SETTLEMENT FUND

### STATEMENTS OF INCOME, EXPENSES AND BENEFIT PAYMENTS, AND CHANGE IN FUND BALANCE—MODIFIED CASH BASIS FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004

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	2005	2004
INCOME:		
Settlement payments by Pfizer/Shiley	\$ 6,250,000	\$ 6,250,000
Net investment income	<u>743,412</u>	<u>313,086</u>
Total income	<u>6,993,412</u>	<u>6,563,086</u>
EXPENSES AND BENEFIT PAYMENTS:		
Litigation attorneys—fees and expenses		1,365,081
Research programs	2,963,438	4,536,019
Supervisory panel expenses	1,000,300	1,104,474
Trustees' fees and expenses	95,695	103,980
Notification expense	6,784	48,375
Professional fees	189,011	356,817
Other administrative expenses	<u>766,330</u>	<u>753,760</u>
Total expenses and benefit payments	<u>5,021,558</u>	<u>8,268,506</u>
INCREASE (DECREASE) IN FUND BALANCE	1,971,854	(1,705,420)
FUND BALANCE—Beginning of year	<u>24,544,483</u>	<u>26,249,903</u>
FUND BALANCE—End of year	<u>\$ 26,516,337</u>	<u>\$ 24,544,483</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, 2005 AND 2004

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	2005	2004
CASH FLOWS FROM OPERATING ACTIVITIES:		
Increase (decrease) in fund balance	\$ 1,971,854	\$ (1,705,420)
Adjustments to reconcile increase (decrease) in fund balance to net cash provided by (used in) operating activities		
Decrease (increase) in other assets	9,971	4,981
Increase (decrease) in accounts payable and accrued expenses	<u>(532,879)</u>	<u>327,694</u>
Net cash provided by (used in) operating activities	<u>1,448,946</u>	<u>(1,372,745)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of investments	(49,458,121)	(68,470,355)
Sale of investments	<u>48,327,429</u>	<u>69,869,696</u>
Net cash provided by (used in) investing activities	<u>(1,130,692)</u>	<u>1,399,341</u>
INCREASE IN CASH	318,254	26,596
CASH:		
Beginning of year	<u>759,372</u>	<u>732,776</u>
End of year	<u>\$ 1,077,626</u>	<u>\$ 759,372</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, 2005 AND 2004**

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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 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 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 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, 2005 and 2004, 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 \$26,236,000 and \$25,171,000, at December 31, 2005 and 2004, 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:

2006	\$ 64,074
2007	<u>16,019</u>
Total	<u>\$ 80,093</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 2005 or 2004.

## **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 \$160,000 and \$166,000 for the year ended December 31, 2005 and 2004. Subsequent to year end, the Fund made a final payment for the contribution required for 2005 of \$14,521 in June 2006.

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