



OFFICE OF THE CHANCELLOR

February 4, 2005

The Honorable Thomas V. Mike Miller, Jr.
Co-Chair, Legislative Policy Committee
State House
Annapolis, MD 21401-1991

The Honorable Michael E. Busch
Co-Chair, Legislative Policy Committee
State House
Annapolis, MD 21401-1991

Dear Chairmen:

In accordance with State Government Article Sections 15-523c and 15-610(g) and (h) concerning the quarterly and annual reporting requirements, I am providing you our quarterly report. During the quarter ending December 31, 2004, the University of Maryland, Baltimore granted exemptions as indicated by the enclosed supporting documentation.

These exceptions are in accord with the Board of Regents' Policy on Conflicts of Interest in Research or Development and procedures developed in accordance with the provisions of the Public/Private Partnership Act.

Sincerely yours,

William E. Kirwan
Chancellor

Enclosure

cc: The Honorable Robert L. Ehrlich, Jr.
Members of the Legislative Policy Committee
Members of the State Ethics Commission
Office of the Attorney General

1807 University of Maryland, Baltimore
1856 University of Maryland, College Park
1865 Bowie State University
1866 Towson University
1886 University of Maryland Eastern Shore
1898 Frostburg State University
1900 Coppin State University
1925 Salisbury University
1925 University of Baltimore
1925 University of Maryland Center for Environmental Science
1947 University of Maryland University College
1966 University of Maryland, Baltimore County
1985 University of Maryland Biotechnology Institute



UNIVERSITY OF MARYLAND

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CHANCELLOR'S OFFICE

MEMORANDUM

TO: William E. Kirwan, Ph.D.
Chancellor

FROM: David J. Ramsay, D.M., D.Phil.
President, University of Maryland, Baltimore *Dalby*

DATE: January 3, 2005

RE: Second Quarter Report on Exemptions Granted Pursuant
To the Public-Private Partnership Act

There were two exemptions granted to UMB personnel between October 1, 2004 and December 31, 2004, pursuant to the Public-Private Partnership Act.

EMPLOYEE	INTEREST	ENTITY	DATE OF EXEMPTION
Richard Dalby, Ph.D.	Paid Consulting	Next Breath, LLC	October 21, 2004
Myron Levine, M.D., D.T.P.H.	Equity, Paid Membership on Board of Directors	VaxGen, Inc	October 21, 2004

If any further information is required, please do not hesitate to contact Mr. Joe Giffels in the Office of the Vice President of Academic Affairs at (410) 706-1853.

PC: Mr. Joe Giffels
Dr. Malinda Orlin
State Ethics Commission (with attachments)

D. Additional Information

Is the entity an ongoing business concern? **Yes**

If the entity is to be established,

(a) When do you think it will be created? **N/A**

(b) What state will it be organized in? **N/A**

Section Two. Your Conflict of Interest Concerns. Supply information about the potential or actual conflict of interest and your proposal to mitigate it.

A. Description of Conflict of Interest. Describe in your own words the potential or actual conflict of interest which you or others have identified which led you to file this exemption request. Use the space provided, or attach a statement. You may attach supporting documents as helpful.

I am a compensated consultant and a Chief Scientific Advisor for Next Breath, L.L.C. Furthermore, I guaranteed a loan for Next Breath, Inc. - \$8,000 (I did not give them money, but co-signed a loan and would be responsible for it if they defaulted) to establish a facility in the UMBC Tech Center. There is a proposed MIPS agreement, which does not involve human subjects or tissues or blood between Next Breath, L.L.C. and UMB to develop technologies to improve the effectiveness of existing inhaled drugs ("Enhanced Pulmonary Drug Delivery") by increasing the bioavailability of drugs given by pulmonary inhalation. My activities as the Principal Investigator of the MIPS project, to be conducted at UMB, may be perceived to be subject to bias as a result of my financial interests (i.e., compensation for consulting and advising activities as well as the guaranteed loan agreement) in the company sponsoring the research.

B. Steps to Mitigate Conflict. Describe in your own words what steps you think UM could take to ensure that the integrity of your UM work is not compromised by your relationship with the entity. Be thorough. Use the space provided, or attach a statement. You may attach supporting documents as helpful.

My consulting activities for Next Breath will not include any activities related to research to be conducted at UMB. Nevertheless, a summary of all developments from the project, "Enhanced Pulmonary Drug Delivery," will be reported to the ORD who will hold such information in confidence. A summary of all the findings of my results will be disclosed to and, if she wishes, discussed with my Department Chair at 3 month intervals. Conclusions from such discussions will be documented by me in

writing and include any implementation plans for changes suggested by my Department Chair. If necessary, I would support the establishment of an expert committee to oversee the MIPS work by reviewing the research, data, and publications to be funded by the MIPS grant. The Chair and any Committee agrees to hold such data in confidence. I will disclose my business and financial relationship with Next Breath, L.L.C., to anyone (including, but not limited to, collaborating faculty, staff, trainees, and subjects) participating in the Next Breath, L.L.C.-funded research or related research. I will disclose my relationship with Next Breath, L.L.C., when I publish or speak on the research, including presentations on campus. Due to my role as a Chief Scientific Advisor, I will recuse myself from all discussions of and votes on decisions involving the University. I will also recuse myself from consideration of business decisions involving technologies that are the subject of my research.

As regards the loan guarantee, I assume Next Breath will repay it exactly as specified in the loan agreement.

I propose there be a limit as to the amount of time I be allowed to devote to my consulting/advising activities with Next Breath. This will be agreed with the school. (I suggest 10 days per 12 month period).

Have you discussed these suggestions with the entity (y/n)? **Not Yet, except to let them know I have to disclose the potential COI.**

Is the entity prepared to pay the costs associated with implementing these suggestions (y/n)? **Their call, but as a start-up I doubt they have much money to play with.**

Section Three. Research and Development Activities. Explain how, in your view, the exemption will advance the research and development goals of the Public-Private Partnership Act. What are the research and development activities of the entity? In providing this information, remember that the UM Procedures Implementing Board of Regents Policy on Conflicts of Interest in Research or Development define "research" and "development" as basic or applied research or development, including (A) the development or marketing of university-owned technology or intellectual property; (B) the acquisition of services of an official or employee by an entity for research and development purposes; or (c) participation in State economic development programs. Research does not have to be sponsored research in order for relationships with entities to be eligible for Public-Private Partnership Act exemptions.

My relationship with Next Breath, L.L.C. will facilitate research and development to improve and increase the bioavailability of existing inhaled drugs. These technologies are expected to be a benefit of the general public nationally, as well to the citizens of Maryland. Also, these project activities should be of economic benefit to the State of Maryland, as the company servicing the project development is organized in Maryland. My consulting and advising relationship would provide the company with my specialized scientific expertise.

Section Four. Details of Relationship. Provide information about the entity's relationship, present and/or proposed, with UM, and the entity's present or proposed interest in your work at UM.

A. Sponsored Research Agreements. Describe any present or proposed sponsored research agreements with the entity, as sponsor or as subcontractor to UM, involving you or your laboratory or academic group. Give the approximate budget, the Principal Investigator, the title of the project, and the name of the UM grants and contracts administrator most familiar with the project.

The phase I MIPs grant is the first such collaborative research agreement. A phase two is envisioned.

B. Options or License Agreements. Describe any present or proposed options or license agreements known to you between UM and the entity if such agreements relate to inventions or other intellectual property developed by you or in your laboratory or academic group, giving the title of the subject intellectual property.

I believe how these issues are to be decided is laid out in the terms of the MIPs grant. I'm not personally aware what they are.

C. Entity Interest in Outcome. If, to your knowledge, the entity is interested in the outcome of your research or academic work, but is not a sponsor of your work, explain why the entity has such interest, in your opinion.

Next Breath works with clients to evaluate nasal and pulmonary drug delivery systems on a contract basis to permit regulatory approval of products. They do mostly routine testing. I don't do work for regulatory submissions (my lab is not GLP compliant), but research in the same area of inhaled drug delivery. I suspect Next Breath is interested in what I do to the same extent as other companies that work in the field but don't support work in my lab.

D. Gifts or Grants. If the entity has made gifts or grants to UM or the University of Maryland Foundation (UM Fund) in support of your work at UM, give information about the dates and amounts of the gifts or grants, including whether or not the funds were used for any purpose related to your proposed relationship with the entity.

None - Although I have solicited a donation (I suggested \$500) to help support the University of Maryland Alumni Reception at the November 2004 meeting of the American Association of Pharmaceutical Scientists Meeting. I don't know if they will cough-up or not (other faculty in PSC are making the same request of companies they work with). If they donate, I'm happy to have the funds under someone else's control (Perhaps Dr. Eddington?).

Section Five. Ownership Information. If you are requesting an exemption permitting you to have an ownership interest in an entity, provide the requested information, and attach a copy of any written proposal or offer covering the ownership interest.

I don't have an ownership interest in the company.

A. What "units" you will or may own. (E.g., stock, warrants, limited partnership interest, LLC interest.)

B. Ownership.

Individual _____ Joint _____

If joint, name of co-owner: _____

C. Value of your Ownership Interest. Current estimated dollar value _____. Percent of total ownership _____.

D. Conditions of Ownership. Describe any conditions or encumbrances affecting your ownership interest. (E.g., will you be prohibited from exercising options or selling stock for a certain period of time, or until certain events occur?)

E. Will you purchase the ownership interest? (Y/N) ____ If so, what will you pay for it? _____ How does that price compare with the market value, if there is a market value?

F. If you are not purchasing the ownership interest, what is the consideration for the ownership interest?

G. From what person or organization will you acquire your ownership interest?

Section Six. Your Employment Relationship. If you are requesting an exemption for an employment relationship (including both traditional compensated employment and other relationships e.g., consulting, office or executive responsibility in the entity's operations, board membership, royalties, etc.), attach a copy of any written proposal or offer covering the employment relationship and provide the requested information:

A. What position will you hold? What duties will you have on behalf of the entity? Be as specific as possible. In particular, if you will be conducting any research or scientific work for the entity, address what you will be doing, where you will do it, and the relationship, if any, to your work at UM.

Title: **Consultant and Chief Scientific Advisor**

Responsibilities: **I basically help design experiments and make technical suggestions about how specific in vitro tests can be conducted. I also help source test equipment and suggest other people who may be able to assist with specific projects.**

B. How much time will you be providing to the entity?
Not more than 10 days/year

C. What compensation, if any, do you expect from the entity?

I expect to be compensated at the same rate I charge other industrial companies for scientific advice -- \$2000 per day.

D. Will you use annual and other paid leave time for the work for the entity? **No.** If no, please explain.

I limit my total consulting activities to no more than 1 day per week, which I understand to be the informally accepted practice at UM. (I'm not aware of a specific recommendation/policy). Work for Next Breath will fall within this limit. I report consulting as required at 6 month intervals, and in 2003 reported 32 hours (4 days with Next Breath).

E. Are you requesting a leave of absence or change in level of FTE at UM in order to make your time available to the entity? **No.** If available, attach a copy of the request you have made and the approval.

F. If you are an externally funded investigator, what percentage of your FTE is budgeted to grants and contracts at this time?

5-10%

Section Seven. Gifts. Describe any gifts for which you are requesting an exemption because of your relationship with the donating entity, or that entity's interest in your work.

I don't expect to be offered or receive a gift.

If you are seeking permission to accept a gift or honorarium from an entity which has a relationship with you, or an interest in your work, provide the nature and value of the gift. You need to give this information whether you are considering a gift directly to you which you plan to retain, a gift you plan to give to another person or entity (e.g., assigning the gift to the UM Fund), or a gift arranged through you but directed to the UM Fund or other UM affiliates which can hold and administer funds for the benefit of your work.

Give the nature and value of the gift (cash, stock, etc.; market value or face value), and attach a copy of any written offer.

Section Eight.

A. Other Relationships with the Entity. Provide information about any other relationship with the entity which has not been discussed above, but which may require an exemption to be lawful. Include here matters such as employment of a spouse or dependent child by the entity, ownership of an interest in the entity by a spouse, dependent child, or other dependent, or relationships between the entity and other organizations with which you or your spouse or dependent child have ownership or employment relationships. In describing ownership interests, give details, including percentage interest and value. In describing employment, give levels of effort and salary.

None

B. Relationship with other organizations. Describe any employment, ownership, or business relationship held by you or a spouse or dependent child in any business which could be affected (positively or negatively) by your relationship, or the results of your work, for the entity discussed in this exemption request. **None**

Section Nine. Signature and Approvals.

Before routing this form, execute it here. Please remind other reviewers to consider this form thoughtfully, complete their sections below, and execute the form if they are forwarding your request with a positive recommendation. Omit any steps of review which are not applicable to you. Be sure the last reviewer forwards the exemption request to the Conflict of Interest Officer.

A. I hereby make oath or affirm that the contents of this Exemption Request are true and correct to the best of my knowledge, information and belief.

Richard Dalby
Your Signature

5/17/04
Date

B. Supervisor's Statement

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

5/19/04
Date

Natalie D'Edley
Supervisor's Signature

C. Statement of Division Head or Director

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

Date

Signature of Division Head or Director

D. Statement of Chairperson or Assistant/Associate Vice President

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

5/19/04
Date

Natalie D'Edley
Signature of Chairperson or Assistant/
Associate Vice President



UNIVERSITY OF MARYLAND

MEMORANDUM

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TO: Richard Dalby, Ph.D.
Associate Professor
Pharmaceutical Sciences
School of Pharmacy

FROM: David J. Ramsay, D.M., D.Phil.
President

RE: Conflict of Interest Disclosure #04-06-001

DATE: October 21, 2004

A handwritten signature in black ink, appearing to read "Richard Dalby", written over the "FROM:" line.

I approve, subject to compliance with the following conditions, your conflict of interest exemption request dated June 1, 2004, involving a personal consulting agreement with, and a loan guarantee on behalf of Next Breath, LLC as described in that exemption request. Your association with Next Breath, LLC will facilitate research and development. I have determined that your relationship with Next Breath, LLC would not be a harmful interest, as described in the USM Board of Regents' Policy on Conflicts of Interest in Research and Development. This exemption permits your association with Next Breath, LLC as described in your exemption request. In the absence of this exemption, your association with Next Breath, LLC would conflict with Maryland law, including, but not limited to, Sections 15-504 and 15-507 of the Maryland Public Ethics Law and University policy.

The conditions of this exemption follow:

- Your business and financial relationship with Next Breath, LLC must be disclosed by you to anyone (including, but not limited to, collaborating faculty, staff, trainees and subjects) participating in your Next Breath, LLC funded research or related research. Your relationship with Next Breath, LLC must also be disclosed when you publish or speak on the Research. While this latter requirement is already standard with most professional journals and scientific meetings, in the interest of mitigating your conflicts, it must also be applied to presentations made on campus.

- Information about your research plans and outcomes must not be disclosed to Next Breath, LLC prior to the time that such information is made available to the scientific community as a result of publication, except as specified in any research agreements between the University and Next Breath, LLC.
- All of the research you propose, all of the findings that result from or affect your Next Breath, LLC activities, and the conflict of interest issues surrounding your Next Breath, LLC relationship must be disclosed to and discussed with your Department Chair on a regular basis to ensure the integrity of the science proposed and the publications prepared. Your discussions should be documented by you in writing and include an implementation plan for any changes suggested by your Department Chair. Copies of this documentation must be promptly submitted to the School of Medicine Dean's Office and the UMB Conflict of Interest Officer. These requirements are intended to diminish any perception that your research plans, results or publications may be biased as a result of your relationship with Next Breath, LLC.
- If graduate students or postdoctoral fellows join your laboratory to conduct research under or related to the MIPS award under your direction and mentorship, it will be necessary for a faculty member uninvolved with your academic division or research to monitor the student's academic progress and research work and publications to assure that your financial interests in Next Breath, LLC do not adversely affect the student's academic needs. Your Department Chair will be responsible for identifying the faculty monitor and assuring that this provision is met.
- It is assumed that your Next Breath, LLC-sponsored research activities are related to your consulting activities only as described in the disclosure documentation you provided, and that mechanisms for ensuring the integrity of the research (including its design and conduct, and the collection, analysis and reporting of data) are in place. Further, it is assumed that any other University research activities undertaken by you are unrelated to your consulting activities for Next Breath, LLC. You must inform the Conflict of Interest Officer and your Department Chair immediately if these assumptions are incorrect or the facts change. Your consulting activities for Next Breath, LLC shall not involve the use of University funds or facilities, or personnel other than yourself, as described. Your service as Chief Scientific Advisor (under this consultancy) to Next Breath, LLC is approved. You must recuse yourself from all discussions of and votes on decisions involving the University. You also must recuse yourself from consideration of issues involving University of Maryland technologies.
- All research personnel and activities in your laboratory must be supported according to their level of effort and use, respectively, on various projects, supported by the standard departmental review and approval of related documentation (such as University Grant Routing Forms and Time and Effort Reports). Next Breath, LLC must pay full compensation for the time of personnel

and for other research costs, and must pay full facilities and administrative costs unless waivers or reductions have been approved in accordance with University policy.

- You file timely annual reports with the Conflict of Interest Officer.
- It is understood that the research to be conducted under the MIPS award does not involve human subjects. If you anticipate that this or related research will involve human subjects in the future, you are required to amend this Disclosure/Exemption Request and receive approval before any such research may be initiated. You should be aware that Conflict of Interest Exemptions are not usually granted at this institution for research involving human subjects. It is also understood that you will not serve as principal investigator for the MIPS award and that another faculty researcher will assume that position.

Note that this exemption may be voided by me in the event of your failure to satisfy all of the foregoing conditions. Procedural questions regarding this exemption should be directed to the UMB Conflict of Interest Officer, Mr. Joe Giffels (x6-1853), or to my office.

This exemption permits your association with Next Breath, LLC in a manner that comports with the requirements of the Maryland Public Ethics Law and University policy, provided that the conditions of the exemption are observed. Any significant change in your planned relationship with Next Breath, LLC, as disclosed in your exemption request, must be promptly disclosed to the University (through your Department Chair and Dean), so that the effect of the change in circumstances may be determined. I recommend you disclose and discuss proposed changes prospectively to avoid potential withdrawal of this exemption.

PC: Dr. N. Eddington
 Mr. J. Giffels
 Mr. J. Hughes
 Dean D. Knapp
 Dr. M. Orlin

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9/10/04

EXEMPTION REQUEST FORM
DISCLOSING CONFLICT OF INTEREST
RELATED TO RESEARCH OR DEVELOPMENT

PART TWO:

DISCLOSURE AND EXEMPTION REQUEST

Print or type all information.

Section One. Directory Information. Supply the requested information about yourself, as the employee requesting the exemption, and about the entity with which your relationship is proposed:

A. About You

Name: Myron Max Levine, MD, DTPH

University Title: Professor and Director

Division/Department or Administrative Unit:
Director, Center for Vaccine Development;
Head, Division of Geographic Medicine, Department of Medicine;
Head, Division of Infectious Diseases and Tropical Pediatrics,
Department of Pediatrics

FTE: 100%

Annual Salary: \$280,000

University Business Address: Center for Vaccine Development,
Room 480G HSF I

Phone Number: 410 706-7588

Facsimile: 410 706-6205

E-mail Address:
mlevine@medicine.umaryland.edu

B. About Your Immediate Supervisor

Name: William Henrich, M.D.

University Title: Professor and Chair, Department of Medicine

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University Business Address: Room N3W42 UMMS

Phone Number: 410 328-2488

Facsimile: 410 328-8688

E-mail Address: whenrich@medicine.umaryland.edu

C. About the Entity

Name: VaxGen

Form of Organization: Corporation (small vaccine biotechnology company)

(e.g., LLC, corporation, partnership)

State in which it is organized: The entity resides in California but is incorporated under Delaware law.

General nature of its business activities: Development and marketing of vaccine technologies

Any other names under which it does business, and the names of any wholly owned subsidiaries, or corporate parents (companies which own the entity) which conduct business similar to the entity's business, or which also have relationships with UM or you. _____

A Contact Person: Give the name and title of an officer or other person at the entity or its parent who is informed about the proposed relationship:

Lance Gordon, Ph.D., Chief Executive Officer and President VaxGen, Inc.

Give the person's business address:

VaxGen, Inc.,
1000 Marina Blvd., Suite 200, Brisbane, CA 94044

Telephone Number: Tel: (650) 624-1000

Facsimile Number: Fax: (650) 624-1001

E-Mail Address: lgordon@vaxgen.com

D. Additional Information

Is the entity an ongoing business concern? yes no

If the entity is to be established, (a) when do you think it will be created? _____ (give month and year)

(b) What state will it be organized in? _____

Section Two. Your Conflict of Interest Concerns. Supply information about the potential or actual conflict of interest and your proposal to mitigate it.

A. Description of Conflict of Interest. Describe in your own words the potential or actual conflict of interest which you or others have identified which led you to file this exemption request. Use the space provided, or attach a statement. You may attach supporting documents as helpful.

I would be a member of VaxGen's Board of Directors. This position would be compensated with cash (~\$20,000 annually) and stock options (~20,000 shares at fair market value at the date of appointment to the Board). My direct participation as an investigator on NIH-supported studies that involve VaxGen products or vaccine candidates may be perceived to be biased because of my financial interests in VaxGen. Similarly, the use of VaxGen vaccine candidates in research carried out under large NIH grants, Research Contracts or Cooperative Agreements on which I serve as Principal Investigator may be perceived as a potential conflict even if I do not serve as a direct participant in the research.

B. Steps to Mitigate Conflict. Describe in your own words what steps you think UM could take to ensure that the integrity of your UM work is not compromised by your relationship with the entity. Be thorough. Use the space provided, or attach a statement. You may attach supporting documents as helpful.

1. I will disclose my relationships with VaxGen whenever I am discussing my research that is relevant to VaxGen products or areas in which VaxGen has programs.
2. I will not participate in VaxGen discussions or votes on matters involving my research with VaxGen products or UMB research where VaxGen is in anyway involved.
3. In the future, if I choose to exercise stock options as part of my VaxGen compensation, I would hold the shares of stock until such time as the University approved their sale so as not to be in a position to benefit financially from them except when the conflict of interest no longer applies.

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4. I will not serve as an investigator in clinical research that involves VaxGen products.
5. Any clinical research that involves VaxGen products that I oversee as Center for Vaccine Development Director or that is carried out under grants/contracts/agreements for which I serve as the overall Principal Investigator (even though I am not directly involved in the study) will have independent data review panels. Thus, I would not be in a position to significantly influence the outcomes of the research.
6. If I undertake pre-clinical studies that involve VaxGen products supported by NIH I will clearly acknowledge in public venues and other meetings my relationship with VaxGen.

Have you discussed these suggestions with the entity (y/n)? Y

Is the entity prepared to pay the costs associated with implementing these suggestions (y/n)? **No additional costs are anticipated at this time. However, should costs arise (albeit not considered likely), the entity will incur them.**

Section Three. Research and Development Activities. Explain how, in your view, the exemption will advance the research and development goals of the Public-Private Partnership Act. What are the research and development activities of the entity? In providing this information, remember that the UM Procedures Implementing Board of Regents Policy on Conflicts of Interest in Research or Development define "research" and "development" as basic or applied research or development, including (A) the development or marketing of university-owned technology or intellectual property; (B) the acquisition of services of an official or employee by an entity for research and development purposes; or (c) participation in State economic development programs. Research does not have to be sponsored research in order for relationships with entities to be eligible for Public-Private Partnership Act exemptions.

My experience in the field of vaccine development would be made available to VaxGen. VaxGen develops and markets products, some of which are tested at UMB and which may ultimately benefit the health of the citizens of Maryland. In addition, my association with VaxGen, as a member of its Board of Directors, would put me in a position to make the company aware of the CVD's research and other University of Maryland, Baltimore inventions that might be of interest to the company for development, if the inventions fit with the company's

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strategic plans. Such access may result in future sponsored research partnerships between UMB laboratories and VaxGen.

Section Four. Details of Relationship. Provide information about the entity's relationship, present and/or proposed, with UM, and the entity's present or proposed interest in your work at UM.

A. Sponsored Research Agreements. Describe any present or proposed sponsored research agreements with the entity, as sponsor or as subcontractor to UM, involving you or your laboratory or academic group. Give the approximate budget, the Principal Investigator, the title of the project, and the name of the UM grants and contracts administrator most familiar with the project.

Heretofore, VaxGen has not been a sponsor of research at UMB. However, VaxGen has provided candidate anthrax vaccines for clinical trials to be carried out by University of Maryland, Baltimore (CVD) investigators under NIH VTEU and RCE funding.

B. Options or License Agreements. Describe any present or proposed options or license agreements known to you between UM and the entity if such agreements relate to inventions or other intellectual property developed by you or in your laboratory or academic group, giving the title of the subject intellectual property.

Currently, there are no license agreements.

C. Entity Interest in Outcome. If, to your knowledge, the entity is interested in the outcome of your research or academic work, but is not a sponsor of your work, explain why the entity has such interest, in your opinion. **Heretofore, VaxGen has not been a sponsor of research at UMB. However, VaxGen has provided candidate anthrax vaccines for clinical trials to be carried out by University of Maryland, Baltimore (CVD) investigators under NIH VTEU and RCE funding. We have been carrying out pre-clinical studies of a heterologous prime-boost strategy to immunize against anthrax utilizing a VaxGen recombinant vaccine. Although VaxGen is loosely aware of these experiments, they have not seen the data and the VaxGen product was provided through NIH. It is possible that if VaxGen were aware of these data they might have some interest in sponsoring further research in this area.**

D. Gifts or Grants. If the entity has made gifts or grants to UM or the University of Maryland Foundation (UM Fund) in support of your

work at UM, give information about the dates and amounts of the gifts or grants, including whether or not the funds were used for any purpose related to your proposed relationship with the entity.

VaxGen has provided no gifts.

Section Five. Ownership Information. If you are requesting an exemption permitting you to have an ownership interest in an entity, provide the requested information, and attach a copy of any written proposal or offer covering the ownership interest.

A. What "units" you will or may own. (E.g., stock, warrants, limited partnership interest, LLC interest.)

Stock options

I will be offered an option to purchase 20,000 shares of VaxGen common stock. The exercise price of my option will be equal to the closing price of VaxGen's common stock on the day I become a director. This only represents an option to purchase VaxGen's common stock. No ownership ensues unless I choose to exercise the option. Additionally, once I have been a director for at least six months, I will be eligible to receive at each of the company's annual meetings an additional option to purchase 10,000 shares. All of these option grants are part of VaxGen's standard Board compensation package.

*VaxGen is considering revising their Board compensation package and I may receive an additional 5,000 shares.

B. Ownership.

Individual _____ Joint X

If joint, name of co-owner: Suzanne G Levine

C. Value of your Ownership Interest. Current estimated dollar value **The value of my options can be estimated only after an exercise price has been established on the day I become a director. As an example, if I were elected on a day in September, 2004 when the closing market price was \$10.00 (\$10.10 as of 9/13/04), the value of the option could be estimated using the "Black-Scholes" formula as \$7.96. This formula is probably the most commonly used way of estimating stock option value at the time of grant but reality may vary widely, based on market conditions and company performance. The formula considers the historical volatility of the stock price and**

the length of time an option can be held before electing exercise, amongst other factors.

Percent of total ownership 20,000 fully vested options = ~0.06% of VaxGen's total shares outstanding.

D. Conditions of Ownership. Describe any conditions or encumbrances affecting your ownership interest. (e.g., will you be prohibited from exercising options or selling stock for a certain period of time, or until certain events occur?) In regard to my initial option grant to purchase 20,000 VaxGen common shares, one-third of these options vest each year. The annual option grants for 10,000 common shares vest upon their respective award dates. Directors of the Company are restricted from exercising options or selling shares resulting from exercise of an option from time to time. These restriction periods are determined by the Company when its is believed that members of its Board of Directors may have material non-public information which could unfairly advantage them vs. other investors in the open market.

E. Will you purchase the ownership interest? (Y/N) If so, what will you pay for it? _____ How does that price compare with the market value, if there is a market value?

There are two alternatives for exercising the option grants. The first alternative would be to exercise all or a portion of the options for cash, meaning that I would pay VaxGen the cash value of the options. The cash value of each option would be based on the exercise price established when the options were awarded.

The second, and more likely, alternative would be a cashless exercise wherein the purchase of stock would be simultaneous with a sale of the same stock.

I would normally only exercise my options if the market value of VaxGen's stock is higher than the option's exercise price. For example, assuming my options have vested and the Company has not imposed a trading restriction, if the option exercise price was \$10 and the price of VaxGen's stock at the time of exercise was \$15 per share, I would buy stock from VaxGen at \$10 per share and sell them for \$15 each on the open market. The \$5-per-share difference between the exercise price and the sales price would represent my compensation. Conversely, the options would be worthless if VaxGen's stock were trading at or below \$10 per share.

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F. If you are not purchasing the ownership interest, what is the consideration for the ownership interest? **See answer to E.**

G. From what person or organization will you acquire your ownership interest?

In either a cashless exercise or cash exercise of options, the common stock would be issued by VaxGen.

Section Six. Your Employment Relationship. If you are requesting an exemption for an employment relationship (including both traditional compensated employment and other relationships e.g., consulting, office or executive responsibility in the entity's operations, board membership, royalties, etc.), attach a copy of any written proposal or offer covering the employment relationship and provide the requested information:

A. What position will you hold? What duties will you have on behalf of the entity? Be as specific as possible. In particular, if you will be conducting any research or scientific work for the entity, address what you will be doing, where you will do it, and the relationship, if any, to your work at UM.

Title: Member, Board of Directors

Responsibilities: To provide guidance on vaccine projects and vaccine technologies in which the company should become involved

B. How much time per biweekly period _____, month _____, year _____ will you be providing to the entity? I estimate that I will be providing approximately one day every 6-8 weeks.

C. What compensation, if any, do you expect from the entity?

(~\$20,000 annually and options for ~ 20,000 shares of stock

D. Will you use annual and other paid leave time for the work for the entity? (Y/N) Y If no, please explain.

E. Are you requesting a leave of absence or change in level of FTE at UM in order to make your time available to the entity? (Y/N) N If available, attach a copy of the request you have made and the approval.

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F. If you are an externally funded investigator, what percentage of your FTE is budgeted to grants and contracts at this time?

90%

Section Seven. Gifts. Describe any gifts for which you are requesting an exemption because of your relationship with the donating entity, or that entity's interest in your work.

If you are seeking permission to accept a gift or honorarium from an entity which has a relationship with you, or an interest in your work, provide the nature and value of the gift. You need to give this information whether you are considering a gift directly to you which you plan to retain, a gift you plan to give to another person or entity (e.g., assigning the gift to the UM Fund), or a gift arranged through you but directed to the UM Fund or other UM affiliates which can hold and administer funds for the benefit of your work.

Give the nature and value of the gift (cash, stock, etc.; market value or face value), and attach a copy of any written offer.

None

Section Eight.

A. Other Relationships with the Entity. Provide information about any other relationship with the entity which has not been discussed above, but which may require an exemption to be lawful. Include here matters such as employment of a spouse or dependent child by the entity, ownership of an interest in the entity by a spouse, dependent child, or other dependent, or relationships between the entity and other organizations with which you or your spouse or dependent child have ownership or employment relationships. In describing ownership interests, give details, including percentage interest and value. In describing employment, give levels of effort and salary.

None

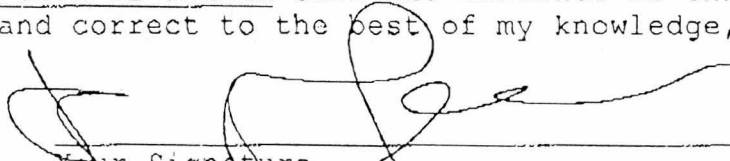
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B. Relationship with other organizations. Describe any employment, ownership, or business relationship held by you or a spouse or dependent child in any business which could be affected (positively or negatively) by your relationship, or the results of your work, for the entity discussed in this exemption request.

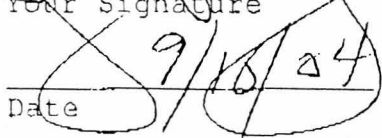
Section Nine. Signature and Approvals.

Before routing this form, execute it here. Please remind other reviewers to consider this form thoughtfully, complete their sections below, and execute the form if they are forwarding your request with a positive recommendation. Omit any steps of review which are not applicable to you. Be sure the last reviewer forwards the exemption request to the Conflict of Interest Officer.

A. I hereby make oath or affirm that the contents of this Exemption Request are true and correct to the best of my knowledge, information and belief.



Your Signature



Date

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B. Supervisor's Statement

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

Date Supervisor's Signature

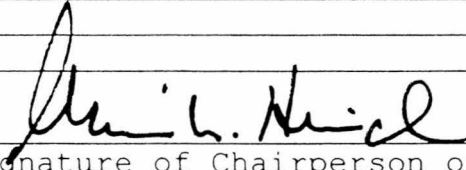
C. Statement of Division Head or Director

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

Date Signature of Division Head or Director

D. Statement of Chairperson or Assistant/Associate Vice President

I have reviewed this exemption request and I support it, subject to the conditions, if any, set out here: _____

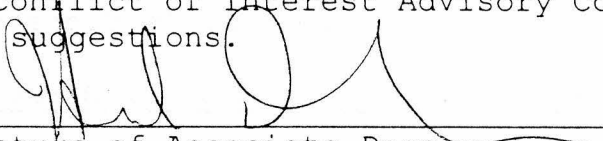
Date  Signature of Chairperson or Assistant/
Associate Vice President

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E. Statement of Sr Associate Dean for Research and Graduate Studies

I have reviewed this exemption request. I am aware of the nature of the conflict and the proposed measures to mitigate it. I am forwarding it to the Conflict of Interest Advisory Committee for its review, comments and suggestions.

9/20/04
Date

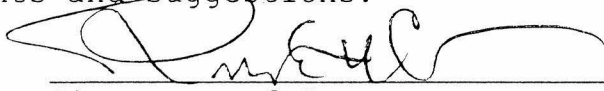


Signature of Associate Dean

F. Statement of Dean

I have reviewed this exemption request. I am aware of the nature of the conflict and the proposed measures to mitigate it. I am forwarding it to the Conflict of Interest Advisory Committee for its review, comments and suggestions.

9/20/04
Date



Signature of Dean

FORWARD THIS FORM TO J. JOSEPH GIFFELS, UMB CONFLICT OF INTEREST OFFICER, FOURTH FLOOR, LOMBARD BUILDING, 515 WEST LOMBARD STREET, BALTIMORE, MD 21201.



UNIVERSITY OF MARYLAND

MEMORANDUM

CONFIDENTIAL

TO: Myron Levine, MD, DTPH
Professor and Director
Departments of Medicine and Pediatrics
School of Medicine

FROM: David J. Ramsay, D.M., D.Phil.
President

RE: Conflict of Interest Disclosure #04-09-009

DATE: October 21, 2004

A handwritten signature in black ink, appearing to read "David Ramsay", written over the printed name of the President.

I approve, subject to compliance with the following conditions, your conflict of interest exemption request dated September 20, 2004, involving membership on the Board of Directors of VaxGen, Inc. (VaxGen) as described in that exemption request. Your association with VaxGen will facilitate research and development. I have determined that your relationship with VaxGen would not be a harmful interest, as described in the USM Board of Regents' Policy on Conflicts of Interest in Research and Development. This exemption permits your association with VaxGen as described in your exemption request. In the absence of this exemption, your association with VaxGen would conflict with Maryland law, including, but not limited to, Sections 15-504 and 15-507 of the Maryland Public Ethics Law and University policy.

The conditions of this exemption follow:

- Your business and financial relationship with VaxGen must be disclosed by you to anyone (including, but not limited to, collaborating faculty, staff, trainees and subjects) participating in your VaxGen funded research or related research. Your relationship with VaxGen must also be disclosed when you publish or speak on the research. While this latter requirement is already standard with most professional journals and scientific meetings, in the interest of mitigating your conflicts, it must also be applied to presentations made on campus.

Information about your research plans and outcomes must not be disclosed to VaxGen prior to the time that such information is made available to the scientific community as a result of publication, except as specified in the research agreements involving the University and VaxGen.

- All of the research you propose, all of the findings that result from or affect your VaxGen activities, and the conflict of interest issues surrounding your VaxGen relationship must be disclosed to and discussed with your Department Chair on a regular basis to ensure the integrity of the science proposed and the publications prepared. Your discussions should be documented by you in writing and include an implementation plan for any changes suggested by your Department Chair. Copies of this documentation must be promptly submitted to the School of Medicine Dean's Office and the UMB Conflict of Interest Officer. These requirements are intended to diminish any perception that your research plans, results or publications may be biased as a result of your relationship with VaxGen.
- Your service as a member of the Board of Directors for VaxGen is approved, as described in your exemption request. You must recuse yourself from all discussions of and votes on decisions involving the University or University technologies. You also must recuse yourself from votes on decisions involving VaxGen products tested in research in which you participate.
- Because trainees (postdoctoral fellows, graduate students, medical students and others) may be conducting research under your direction and mentorship, it will be necessary for a faculty member uninvolved with your academic division or research to monitor the students' academic progress, research work and publications to assure that your financial interests in VaxGen do not adversely affect the students' academic needs. Your Department Chair will be responsible for identifying the faculty monitor and assuring that this provision is met for existing trainees and for any other trainees who may become involved with this or related research in your laboratory.
- In addition to the oversight mechanisms described above, your Department Chair is required to establish a scientific oversight committee comprising individuals with sufficient scientific expertise but without direct financial relationships with you or VaxGen. This Committee will be charged with reviewing your research plans and results as well as the publications to be made, to ensure that your financial interests have not adversely affected the research or your publications. The Committee's reviews must be documented in writing and must be submitted to your Department Chair for approval and then to the UMB Conflict of Interest Officer for review.
- Your Board of Director activities for VaxGen shall not involve the use of University funds or facilities, or personnel other than yourself, as described.
- All research personnel and activities in your laboratory must be supported according to their level of effort and use, respectively, on various projects, supported by the standard departmental review and approval of related documentation (such as University Grant Routing Forms and Time and Effort Reports). All sponsors, including VaxGen if it is a sponsor of your research, must

pay full compensation for the time of personnel and for other research costs, and must pay full facilities and administrative costs unless waivers or reductions have been approved in accordance with University policy.

- You have stated, and it is understood that the estimated current value of VaxGen stock on which you would have a purchase option is \$7.96 per share and that, if you were to exercise your option to purchase all 20,000 shares, your holding would represent 0.06% of the total outstanding shares. As a condition of this exemption, if and when stock is issued to you, you must hold the stock until the earliest of the following trigger events:
 - upon arms-length acquisition of all the stock or assets of VaxGen in return for cash; or
 - two years from the first commercial sale of a product which was tested in research with which you were involved; or
 - upon approval by the President of a written request for permission to sell the stock.

These precautions are intended to mitigate criticism that inappropriate financial motivation may cause bias in your research. You will retain ownership of the stock at all times.

- You file timely annual reports with the Conflict of Interest Officer.
- As you will be the Principal Investigator on one or more NIH-sponsored research grants, the University is required to disclose your financial interests and report that the resulting conflict of interest has been managed to the U.S. Public Health Service. The Conflict of Interest Officer will contact you regarding this requirement.

Note that this exemption may be voided by me in the event of your failure to satisfy all of the foregoing conditions. Procedural questions regarding this exemption should be directed to the UM Conflict of Interest Officer, Mr. Joe Giffels (x6-1853), or to my office.

This exemption permits your association with VaxGen in a manner that comports with the requirements of the Maryland Public Ethics Law and University policy, provided that the conditions of the exemption are observed. Any significant change in your planned relationship with VaxGen, as disclosed in your exemption request, must be promptly disclosed to the University (through your Department Chair and Dean), so that the effect of the change in circumstances may be determined. I recommend you disclose and discuss proposed changes prospectively to avoid potential withdrawal of this exemption.

PC: Mr. J. Giffels
 Mr. J. Hughes
 Dr. M. Orlin
 Dr. W. Henrich
 Dean D. Wilson