

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

_____)
 UNITED STATES OF AMERICA)
ex rel. DAVID FRANKLIN,)
)
 Plaintiff,)
)
 v.)
)
 PARKE-DAVIS, DIVISION OF)
 WARNER-LAMBERT COMPANY, and)
 PFIZER INC,)
)
 Defendants.)
 _____)

Civil Action
No. 96-11651-PBS

STIPULATION OF DISMISSAL

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1), in accordance with the terms of the Civil and Administrative Settlement Agreement (Settlement Agreement) between the United States, Relator David Franklin, Pfizer Inc and Parke-Davis, Division of Warner-Lambert Company LLC, and, specifically, Paragraph 2 thereof, and conditioned upon receipt of payment of the Settlement Amount as required by Paragraph 1 of the Settlement Agreement, the United States, Relator David Franklin, Pfizer Inc, and Parke-Davis, hereby stipulate, through their undersigned counsel, to the entry of an order dismissing Relator's Amended Complaint in this action, with prejudice to Relator and without prejudice to the United States, subject to the terms of the Settlement Agreement. Relator David Franklin, Pfizer Inc, and Parke-Davis, further stipulate that the Court shall retain jurisdiction to decide any issue concerning Relator's claim to recover attorneys' fees and costs from Pfizer Inc, and Parke-Davis. This stipulation has no effect on claims or allegations not specifically dismissed herein.


Relator stipulates that the Settlement Agreement is fair, adequate, and reasonable under all the circumstances as defined by 31 U.S.C. § 3730(c)(2)(B).

Relator further stipulates that payment of a Relator's share of \$24,640,000 to Relator fully satisfies and resolves all claims by Relator against the United States under the False Claims Act arising out of the filing of this action and any other claims to a share of the proceeds of this action.

The parties respectfully request that the Court enter an order in the form of the proposed order attached.


Respectfully submitted,

COUNSEL FOR RELATOR:

By: 
THOMAS GREENE
125 Summer Street
Boston, MA 02210
Counsel to Relator David Franklin

COUNSEL FOR DEFENDANTS:

Dated: 6/14/04

By: 
James P. Rouhandeh
Davis Polk & Wardwell
450 Lexington Ave.
New York, NY 10017
Counsel to Parke-Davis, Division of
Warner-Lambert Company, and Pfizer Inc

Pursuant to 31 U.S.C. § 3730(b)(1), the United States hereby consents to the entry of the proposed order of dismissal attached hereto, subject to the terms of the Settlement Agreement

COUNSEL FOR THE UNITED STATES:

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United States Attorney

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DATED: 6/15/04

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA
ex rel. DAVID FRANKLIN,

Plaintiff,

v.

PARKE-DAVIS, DIVISION OF
WARNER-LAMBERT COMPANY,
PFIZER INC,

Defendants.

Civil Action
No. 96-11651-PBS

ORDER

On _____, the United States, Relator David Franklin, Pfizer Inc, and Parke-Davis, filed a stipulation to dismiss certain claims pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and 31 U.S.C. § 3730(b)(1). Upon due consideration of the stipulation and the papers on file in this action,

IT IS HEREBY ORDERED that,

1. In accordance with the terms of the Civil and Administrative Settlement Agreement (Settlement Agreement) between the United States, Relator David Franklin, Pfizer Inc and Parke-Davis, Division of Warner-Lambert Company, and conditioned upon payment by the Defendants of the Settlement Amount stipulated therein, all claims stated in the Relator's Amended Complaint in this action are hereby DISMISSED, with prejudice to Relator and without prejudice to the United States.

2. As to the dismissed claims and allegations, the Court shall retain jurisdiction to decide all issues concerning Relator's claim to recover attorney's fees and costs from Pfizer Inc, and Parke-Davis.

3. No claim or allegation other than those specifically identified in the stipulation and herein shall be dismissed.

4. Upon receipt of the settlement amount from the Defendants paid pursuant to the Civil and Administrative Settlement Agreement, and consistent with the terms of the Relator Share Agreement between the United States and Relator Franklin, as soon as practicable after the latter of (a) the date of payment to the United States by the Defendants and (b) the date of entry of this Order, the United States shall pay Relator Franklin \$24,640,000. Payment of that sum by the United States fully satisfies and resolves all claims by Relator against the United States under the False Claims Act arising out of the filing of this action and any other claims to a share of the proceeds of this action. No other relator shall receive any share of the proceeds of this action.

Done this ____ day of _____, 2004.

UNITED STATES DISTRICT JUDGE