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PAUL A. TRAINA
BRIAN J. LEINBACH
JOY L. ROBERTSON

December 18, 2003

Richard B. Johnston, Jr., M.D.
NATIONAL ACADEMY OF SCIENCES
Committee to Assess the Health
Implication of Perchlorate Ingestion
1056 East 19th Avenue, B-065
Denver, CO 80218

Re: Committee to Assess the Health Implications of Perchlorate Ingestion
Our File No.: 38000/2111

Dear Dr. Johnston:

Thank you for your efforts as Chair of the above-referenced Panel. As you may recall, we met at the conference on December 13, 2003, and I addressed the Committee on the issue of conflict of interest with regard to your Committee Members Richard Bull and Charles Capen. I understood you to say that you had never seen my letter to the National Academy of Sciences, which was sent on November 17, 2003. Enclosed is a copy of that letter and its enclosures, which I think is essential for you to see as the Chair of this Committee. I also understood you to say that the issue of conflict of interest had been vetted, but that none of the Committee Members ever declared a conflict of interest.

It has now been a month since I wrote to the National Academy of Sciences about conflict of interest. I have *never* received a reply. This is a serious issue. I was shocked by the chronic failure to disclose obvious bias and conflict of interest among the Committee's Members and among the Presenters. As I pointed out at the conference, both Patricia Buffler, M.D. and Kenny Crump, Ph.D. failed to disclose to the Committee that they are paid litigation consultants to Lockheed Martin, which is embroiled in heated litigation stemming from its groundwater contamination in Redlands, California. In the case of Dr. Buffler, she admitted that the study she presented was done in response to the Class Action filed in connection with the Redlands groundwater contamination. Thus, it is obvious that this science is being generated by Lockheed for its use in litigation.

The overwhelming majority of attendees and presenters to the Committee were paid by industry or the Department of Defense. When that science is being evaluated by industry's own consultants on your Committee, the bias and conflict of interest is obvious.

Richard B. Johnston, Jr., M.D.
NATIONAL ACADEMY OF SCIENCES
December 18, 2003
Page 2

I also enclose a copy of the NAS conflict of interest policy which clearly defines Drs. Bull and Capen as having a conflict of interest.

I was told by Ellen Mantes of NAS that the conflict of interest issue could be addressed to William Colglazier. By copy of this letter to Dr. Colglazier, I am urging the two of you to reply to this very serious problem.

Sincerely,



GARY A. PRAGLIN

GAP:ih

Enclosure as noted above

\\ODM\GRP\WIS\BELL.DOM\HLLPO\Documents\214353.1

cc: William Colglazier (With Enclosures)
National Academy of Sciences
500 5th Street, N.W.
Washington, DC 20001

COPY

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KENNETH L. CROWDER
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DIRECTOR OF ADMINISTRATION
JOHN ALVA
LITIGATION SUPPORT

November 17, 2003

Via Facsimile & U.S. Mail
(202) 334-2752

Ms. Jennifer Saunders
National Academy of Sciences
Room 100
500 Fifth Street, NW
Washington, DC 20001

Re: Committee to Assess the Health Implications of Perchlorate Ingestion
Our File No.: 38000/2111

Dear Ms. Saunders:

This office represents hundreds of residents of Redlands, California against Lockheed Martin in connection with the drinking of water contaminated with chemicals, including perchlorate.

I recently became aware of the above-referenced Project being undertaken by the National Academy of Sciences. My understanding is that the NAS will assess, among other things, the key studies underlying EPA's 2002 Draft Toxicological Review and Risk Characterization for Perchlorate. I am writing to object to the involvement in your Project of Panel Members Richard Bull and Charles Capen.

Both Richard Bull and Charles Capen are paid litigation consultants of Lockheed Martin. In the case of Richard Bull, he has attended at least three depositions as a consultant to Lockheed Martin, where he electronically passes questions to Lockheed's attorney to be read as cross-examination of the plaintiffs' expert witness. Enclosed as Attachment A are excerpts from those depositions, listing Dr. Bull in attendance. Lockheed takes the position that information provided to it by its consultants, such as Dr. Bull, are privileged and that the plaintiffs in our case and the general public cannot be privy to the information. Thus, Dr. Bull is clearly a litigation consultant aligned with Lockheed's interests to have soft perchlorate regulations and finding of no toxicological consequences or risk from exposure to perchlorate.

Ms. Jennifer Saunders
National Academy of Sciences
November 17, 2003
Page 2

As for Dr. Charles Capen, he is a paid litigation consultant to both Lockheed and the Perchlorate Study Group. I trust you are aware that the Perchlorate Study Group is a consortium of military and industrial interests, including Lockheed. Dr. Capen has been paid by TERA, and his charges have then been paid to TERA by Lockheed. Enclosed As Attachment B are copies of the invoices showing the bill from Capen to TERA to Lockheed. Also enclosed is a copy of Lockheed's December 16, 1997 memo indicating its intent as long ago as 1997 to obtain "sponsorship" of a new perchlorate reference dose and MCL in the 300 to 350 ppb range. You will note the last sentence of the memo where Lockheed indicates "Therefore, it would be great if you could work this issue with your California lobbyists."

I find it hard to believe that Drs. Bull and Capen could be allowed Committee Membership if these obvious conflicts of interest had been fully disclosed. The bio on your Committee Members posted on the internet makes absolutely no mention of any affiliation of Drs. Bull and Capen with Lockheed Martin, the Perchlorate Study Group or TERA.

Assuming that your Project might affect the EPA position on perchlorate, I think it is important that Committee Members not be beholden to the financial interests of Lockheed and its affiliates. This type of conflict of interest has been the downfall of other Panels in the recent past involving industry consultants who have failed to disclose their conflicts of interest.

I would appreciate some response from you indicating what disclosure, if any, were made by these Committee Members. Thank you for your consideration of this important issue.

Sincerely,


GARY A. PRAGLIN

GAP:ih

Enclosures as noted above.

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[Dictated, not read]

ATTACHMENT A

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN BERNARDINO
3 WEST DISTRICT - RANCHO CUCAMONGA

4 ORIGINAL

5) Case No.
6 In Re) RCV 31496
7 REDLANDS TORT LITIGATION) Volume 18
8) Pages 4,685-4,948
9)

10
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16 DEPOSITION OF:

17 DANIEL T. TEITELBAUM, M.D.
18 TUESDAY, NOVEMBER 19, 2002
19 9:10 a.m.
20

21
22
23 REPORTED BY:

24 JARDENE L. PLATT,
25 RPR, CSR No. 3724


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First Financial Plaza, 16830 Ventura Boulevard, Suite 315 Encino, CA 91436
Tel 818-986-5270 Fax 818-783-7310 www.legalink.com

1 Deposition of DANIEL T. TEITELBAUM, M.D., taken
2 on behalf of the Defendants at 333 South Grand Avenue,
3 49th Floor, Los Angeles, California, on TUESDAY,
4 NOVEMBER 19, 2002, at 9:10 a.m., before JARDENE L.
5 PLATT, RPR, CSR No. 3724.

6

7 APPEARANCES OF COUNSEL

8

9 FOR PLAINTIFFS:

10

11

ENGSTROM, LIPSCOMB & LACK

12

BY: GARY A. PRAGLIN, ESQ.

13

10100 Santa Monica Boulevard, 16th Floor

14

Los Angeles, California 90067-4107

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(310) 552-3800

16

17 FOR DEFENDANT LOCKHEED MARTIN CORPORATION:

18

19

GIBSON, DUNN & CRUTCHER LLP

20

BY: JEFFREY D. DINTZER, ESQ.

21

BRETT OBERST, ESQ.

22

ELIZABETH KLEIN, ESQ.

23

333 South Grand Avenue

24

Los Angeles, California 90071-3197

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(213) 229-7000

4686

1 APPEARANCES CONTINUED:

2

3 ALSO PRESENT:

4

5 FRITZ SPERBERG, VIDEOGRAPHER

6 ROBERT JAMES

7 RICHARD BULL

8 JAMES BRUCKNER

9 JOANNE MILAVEC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
WEST DISTRICT - RANCHO CUCAMONGA

ORIGINAL

) Case No.
) RCV 31496
) Volume 23
) Pages 6039-6323
)
_____)

DEPOSITION OF:

DANIEL T. TEITELBAUM, M.D.
WEDNESDAY, JANUARY 29, 2003
9:11 a.m.

REPORTED BY:

JARDENE L. PLATT,
RPR, CSR No. 3724



global court reporting • large case specialists 6039
legal videography • litigation support • trial presentation
First Financial Plaza, 16830 Ventura Boulevard, Suite 315 Encino, CA 91436
Tel 818-986-5270 Fax 818-783-7310 www.legalink.com

1 Deposition of DANIEL T. TEITELBAUM, M.D., taken
2 on behalf of the Defendants at 333 South Grand Avenue,
3 49th Floor, Los Angeles, California, on WEDNESDAY,
4 JANUARY 29, 2003, at 9:11 a.m., before JARDENE L.
5 PLATT, RPR, CSR No. 3724.

6

7 APPEARANCES OF COUNSEL

8

9 FOR PLAINTIFFS:

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11 ENGSTROM, LIPSCOMB & LACK

12 BY: GARY A. PRAGLIN, ESQ.

13 10100 Santa Monica Boulevard, 16th Floor

14 Los Angeles, California 90067-4107

15 (310) 552-3800

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17 FOR DEFENDANT LOCKHEED MARTIN CORPORATION:

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19 GIBSON, DUNN & CRUTCHER LLP

20 BY: JEFFREY D. DINTZER, ESQ.

21 ELIZABETH KLEIN, ESQ.

22 333 South Grand Avenue

23 Los Angeles, California 90071-3197

24 (213) 229-7000

25

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1 APPEARANCES CONTINUED:

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3 ALSO PRESENT:

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5 THE HONORABLE DIANE WAYNE

6 FRITZ SPERBERG, VIDEOGRAPHER

7 ROBERT JAMES

8 CHERYL WALKER, M.D.

9 RICHARD BULL

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN BERNARDINO
3 WEST DISTRICT - RANCHO CUCAMONGA

4 ORIGINAL

5)
6 IN RE REDLANDS TORT LITIGATION.) CONSOLIDATED
7) CASE NO.
8) RCV 31496
9)
10) VOLUME 24
11) (PAGES 6324-6583)
12 -----)

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15

16 VIDEOTAPED DEPOSITION OF:

17 DANIEL T. TEITELBAUM, M.D.
18 THURSDAY, JANUARY 30, 2003
19 8:36 A.M.

20
21
22

23 REPORTED BY:

24 SUSAN NELSON

25 C.S.R. No. 3202

1 Videotaped deposition of DANIEL T. TEITELBAUM, M.D.,
2 the witness, taken on behalf of the Defendants, at
3 8:36 A.M., THURSDAY, JANUARY 30, 2003, at 333 South
4 Grand Avenue, Los Angeles, California, before SUSAN
5 NELSON, C.S.R. No. 3202.

6

7 APPEARANCES OF COUNSEL

8

9 FOR PLAINTIFFS:

10 ENGSTROM, LIPSCOMB & LACK
11 BY: GARY A. PRAGLIN, ESQ.
12 10100 Santa Monica Boulevard
13 16th Floor
14 Los Angeles, California 90067
15 Telephone No. (310) 552-3800

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17 FOR DEFENDANTS LOCKHEED MARTIN CORPORATION:

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25

6325

1 APPEARANCES (CONTINUED):

2

3 ALSO PRESENT:

4

JUDGE DIANE WAYNE

5

RICHARD BULL

6

ROBERT JAMES

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CHERYL WALKER

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FRITZ SPERBERG, VIDEOGRAPHER

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ATTACHMENT B.

Toxicology Excellence for Risk Assessment



TERA

a nonprofit corporation dedicated to the best use of toxicity data for risk values

c. P. O.

Date: October 31st, 1997

To: Ms. Carol Yuge
Lockheed Martin
2550 N. Hollywood Way, Suite 506
Burbank, CA 91505-1055

Contract:

DATE REC'D. 11/2/97
 WBS # 48
 Invoice No: 15
 COPIES Yuge, Blachman
Not a Original Addition

Date	Professional Services	Hours on Duty	Hours Charged	Cost
Oct.	Load a second protocol on website; work with perchlorate steering group to respond to comments on study protocols and load these on the website; address issues associated with cost for next tier of studies.			
	Joan Dollarhide @ \$125/hour	39.5	39.5	\$4,938
	Michael Dourson @ \$160/hour	18.5	18.5	\$2,960
	Carol Haynes @\$56/hour	1.5	1.5	\$84
	Molly Lipstreu @ \$44/hour	0.5	0.5	\$22
	Jacqueline Patterson @ \$115/hour	7.75	7.75	\$891
	Jay Zhao @ \$70/hour	5.5	5.5	\$385
	Total Professional Hours & Fees	59.5	59.5	\$7,982
	Direct Expenses (as attached)		Value	Charged
Oct.	Consultation (Charles Capen)		\$2,100.00	\$2,100
	Photocopying		\$32.40	\$32
	Total Expenses		\$2,132.40	\$2,132
	Total professional fees and expenses			\$10,114
	Amount of credit available			\$7,533
	1/8 of fees & expenses (payable upon receipt)			\$322.61

Sincerely,

Michael Dourson, Ph.D., DABT
Director, Toxicology Excellence for Risk Assessment

4303 Hamilton Avenue • Cincinnati, Ohio 45223
Phone (513) 542-RISK(7475) • Fax (513) 542-7487 • Email tera@tera.org • Home Page www.tera.org

CHARLES C. CAPEN, D.V.M., PH.D.
Diplomate
American College of Veterinary Pathologists
8682 Caldwell Drive, Rt. 6
Westerville, OH 43081 USA

(614) 891-0253
(614) 292-4489

INVOICE

6 October, 1997

TOXICOLOGY EXCELLENCE FOR RISK ASSESMENT
4303 Kirby Ave.
Cincinnati, OH. 45223

Attn. Joan Dollarhyde

CONSULTATION ON THYROID TOXICITY OF PERCHLORATES.....\$2,100.
(Activity after 7 March 1997 Meeting in Cincinnati)

- Review of Perchlorate Research Protocols (4 hr.)
- Conference Call on Research Protocols (5/20/97) (4 hr.)
- Review of Perchlorate Protocols and Prepare Comments (4 hr.)
- Phone Conferences with TERA Staff (2 hr.)

14 hrs. @ \$ 150....\$ 2,100.

Charles C. Capen

CHARLES C. CAPEN

SS # 539-38-1887

Mailing Address:

8682 Caldwell Drive
Westerville, OH. 43082

email 10/24/97

*direct exp.
PSG*

