

THE UNIVERSITY OF MICHIGAN

REGENTS COMMUNICATION

ACTION REQUEST

EXH	MOTION <i>Newman</i>
	SECOND <i>Maynard</i>
	ACTION <b>APPROVED BY THE REGENTS</b>
NOTE:	OCT 21 2005

Subject: Option Agreement between the University of Michigan and BioAvrion

Action Requested: Approval of Option Agreement

Preamble:

A statutory conflict of interest situation was identified by the Office of Technology Transfer while reviewing the technology transfer agreement which then triggered a review by the Medical School Conflict of Interest Board. A plan for management of the possible risks associated with the conflict of interest was then developed and agreed to by the parties involved in this agreement.

This proposed option agreement ("Agreement") falls under the State of Michigan Conflict of Interest Statute because Professors Victor Elner, Howard Petter and Paul Lichter are employees of the University of Michigan ("University") and partial owners of BioAvrion. The law permits such an Agreement provided it is disclosed to the executive officers and approved in advance by a 2/3 vote of the Regents of the University of Michigan.

Background:

Drs. Howard Petty and Victor Elner, both Professors in Ophthalmology and Visual Sciences, and Paul Lichter, Chair of the Ophthalmology and Visual Sciences Department are the partial owners of a for-profit company called BioAvrion. BioAvrion was formed recently to commercialize certain devices and methods for discovering and developing new drugs and desires to option the following technology from the University:

UM File No. 2573, entitled: "Method of Evaluating the Metabolism of the Eye"

UM File No. 2667, entitled: "Anti-Metastatic Ability of Mibefradil and Gadolinium"

Drs. Elner and Petty are listed as inventors on the above-referenced technology files.

Parties to the Agreement:

The Regents of the University of Michigan and BioAvrion.

Option Terms Include:

Option terms include giving BioAvrion an exclusive option for an option period where the Company will evaluate the technology and market potential. The University will retain ownership of the optioned technology and may continue to

further develop it and use it internally. No use of University services or facilities, nor any assignment of University employees, is obligated or contemplated under the agreement. Standard disclaimers of warranties and indemnification apply, and the contract may be amended by consent of the parties. University procedures for approval of these changes will be followed and additional review by the Conflict of Interest Review Committee will be done as appropriate.

Pecuniary Interest:

The pecuniary interests of Drs. Elnor, Petty, and Lichter arise from their ownership interest in BioAvrion. Drs. Elnor and Petty have waived any personal participation in the sharing of revenue received by the University.

Net Effect:

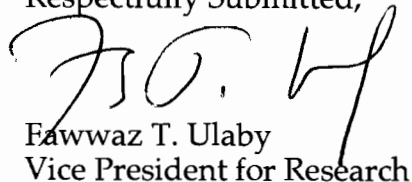
The Office of Technology Transfer has negotiated and finalized the terms of an option agreement for patents related to UM OTT File Nos. 2573 and 2667 for the fields of use of ophthalmic devices and pharmaceuticals.

BioAvrion will obtain use and commercialization rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the Medical School Conflict of Interest Board. In light of this disclosure and our finding that the Agreement was negotiated in conformance with standard University practices, I recommend that the Board of Regents approve the Option Agreement between the University and BioAvrion.

Respectfully Submitted,



Fawwaz T. Ulaby  
Vice President for Research

October 2005