



Biotech Daily

Friday June 28, 2013

Daily news on ASX-listed biotechnology companies

- * **ASX, BIOTECH DOWN: OSPREY UP 9%, COMPUMEDICS DOWN 13%**
- * **HIGH COURT RESOLVES CDPP v JM ARTIFICIAL PRICE QUESTIONS**
- * **ARC LINKAGE PROJECTS**
- * **BIOTECH TAKES 4 OF 30 COMMERCIALISATION AUSTRALIA GRANTS**
- * **ACRUX: ELI LILLY DISTRIBUTES AXIRON IN CANADA**
- * **REVA EXPANDS EURO TRIAL TO AUSTRALIA, NEW ZEALAND**
- * **GENETIC TECHNOLOGIES SETTLES REPRODUCTIVE GENETICS CASE**
- * **HUNTER HALL LIGHTENS, AGAIN, TO 20% OF SIRTEX**
- * **GENETIC TECHNOLOGIES DR MERVYN JACOBSON COURT DATE**
- * **PHOSPHAGENICS REQUESTS ACCOUNTS IRREGULARITY TRADING HALT**

MARKET REPORT

The Australian stock market retreated 0.18 percent on Friday June 28, 2013 with the S&P ASX 200 down 8.7 points to 4,802.6 points.

Ten of the Biotech Daily Top 40 stocks were up, 17 fell, 10 traded unchanged and three were untraded.

Osprey was the best, up four cents or 8.9 percent to 49 cents with 5,500 shares traded.

Benitec and Bionomics climbed more than seven percent; Genetic Technologies was up 5.6 percent; Circadian, Prana and Viralytics rose more than two percent; Neuren was up 1.5 percent; with CSL, Heartware and Nanosonics up by less than one percent.

Compumedics led the falls, down 0.8 cents or 12.7 percent to 5.5 cents with 23,800 shares traded, followed by Phylogica and Uscom, both down 10.5 percent to 1.7 and 17 cents, respectively, with 735,000 and 183,793 shares traded respectively.

Clinuvel fell 4.2 percent; Avita and Medical Developments lost more than three percent; Allied Health, Impedimed, Mesoblast, Prima, Psivida and QRX shed two percent or more; Sirtex was down 1.2 percent; with Acrux, Cochlear, GI Dynamics, Resmed, Starpharma and Universal Biosensors down by less than one percent.

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS v JM

The full bench of the High Court of Australia has confirmed the meaning of an “artificial price”.

The case, on an appeal from the Supreme Court of Victoria, and described as the Commonwealth Director of Public Prosecutions versus JM (M73/2012) was heard in Canberra on May 7 and 8, 2013 and related to “the meaning of an artificial price” in relation to Section 1041A of the Corporations Act (BD: Dec 14, 2012; May 9, 2013). The High Court judges answered three questions relating to the meaning of an artificial price, including matters heard in the Victorian Supreme Court by Justice Mark Weinberg (BD: Sep 2, 2011; Nov 27, 2012).

The Full Bench of the High Court made the following orders:

“Question 1: For the purpose of s 1041A of the Corporations Act 2001 (Cth), is the price of a share on the ASX which has been created or maintained by a transaction on the ASX that was carried out for the sole or dominant purpose of creating or maintaining a particular price for that share on the ASX an ‘artificial price’?

“Answer: Yes.

“Question 2: Was the closing price of shares in [X Ltd] on the ASX on 4 July 2006 an ‘artificial price’ within the meaning [of] s 1041A(c) of the Corporations Act 2001 (Cth)?

“Answer: Yes.

“Question 3: Was the price of shares in [X Ltd] on the ASX on 4 July 2006 maintained at a level that was “artificial” within the meaning of s 1041A(d) of the [Corporations Act 2001 (Cth)]?

“Answer: Yes.”

Part of the case turned on the decision in the Federal Court by Justice Alan Goldberg in the case of the Australian Securities and Investments Commission (ASIC) versus the former Select Vaccines chief executive officer Dr Martin Soust (BD: Apr 23, 2010).

At that time Dr Soust was disqualified from managing corporations for 10 years, fined \$80,000 and ordered to pay legal costs.

Justice Goldberg said at that time that Dr Soust contravened Section 1041A of the Act by taking part in, and carrying out, a transaction that had the effect of creating an artificial price for trading in shares in Select Vaccines (now Select Exploration).

In May, barrister Paul Holdenson QC for the CDDP was quoted in the transcripts saying “there was always an issue between the parties concerning the construction of section 1041A of the Corporations Act and, hence, the correctness of the decision of his Honour Justice Goldberg in the Federal Court in the case of ASIC v Soust”.

“The Crown says that ‘artificial price’ in section 1041A connotes a price created not for the purpose of implementing or completing a transaction between genuine parties wishing to buy and sell securities, but rather for a purpose unrelated to achieving the outcome of the interplay of genuine market forces of supply and demand; that purpose being to ensure that the price for GTG was kept at levels designed to minimise the calls made on the accused under the margin lending arrangements,” the transcript reported Mr Holdenson saying.

Barrister Mark Moshinsky SC for JM was quoted telling the High Court in May that there was a difference between the question posed in the case heard by Justice Weinberg and the restated question from the majority of the Court of Appeal.

The High Court decision is at: <http://www.austlii.edu.au/au/cases/cth/HCA/2013/30.html>.

AUSTRALIAN RESEARCH COUNCIL

The Australian Research Council says it will provide \$101.8 million in Linkage grants for 306 research projects.

The ARC announcements said that medical and health sciences were awarded 24 of the project grants with Cell Care Australia, Cochlear, CSL, Grey innovation, Patrys, Pharmaxis, Phylogica, Starpharma and Vaxxas among the partner organizations.

The full list is at: http://www.arc.gov.au/ncgp/lp/lp_outcomes.htm.

The Council said that the projects ranged from a vaccine to protect Tasmanian devils from contagious facial tumors to smart-phone technology and the prevention of anxiety and depression in girls.

Australian Research Council chief executive officer Prof Aidan Byrne said collaboration for quality research and development was fundamental to transforming industries, building communities and strengthening the Australian economy.

"We need to encourage collaboration between researchers, industries, and communities to work together and find solutions to real, everyday challenges and issues," Prof Byrne said.

"It's about bringing together the scientists in our research institutions with industry, business and community organizations - those who can apply the outcomes of research - to tap into research expertise and share knowledge," Prof Byrne said.

Prof Byrne said that 576 partner organizations would be involved in the projects, to contribute a total additional investment through cash and in-kind of \$193.8 million.

The Council said that Linkage projects supported collaborative research between higher education researchers and partner organizations in the public, private and not-for-profit sectors.

COMMERCIALISATION AUSTRALIA

Four biotechnology related companies are among a round of grants announced by Commercialisation Australia.

Commercialisation Australia published the list to its website but did not appear to publish any summary or media release with it.

Allied Healthcare Group's Celxcel was awarded a \$1,927,205 early stage commercialization grant for its Cardiocel bovine cardiac tissue patch.

The University of Wollongong will receive \$50,000 for a radiation dose detector for more effective and safer patient treatment.

Dr Greg Szto Pty Ltd will receive \$248,283 for niacin formulation for heart disease, in collaboration with the Commonwealth Scientific and Industrial Research Organisation.

Novadien Healthcare will receive \$234,689 for the early stage commercialization of a new circumcision method and device for the international infant male circumcision market.

ACRUX

Acrux says that Eli Lilly has begun distribution of Axiron in Canada for testosterone replacement therapy.

Acrux said that Axiron was used for conditions associated with male deficiency or absence of endogenous testosterone or hypogonadism.

Acrux executive chairman Ross Dobinson said the company was "pleased that Lilly has achieved another planned milestone in the international commercialization of Axiron, which is now available to patients in the United States, Australia and Canada".

Acrux fell three cents or 0.85 percent to \$3.51 with 445,763 shares traded.

REVA MEDICAL

Reva says it has begun enrolling patients in its Rezolve2 bioresorbable scaffold European registration trial at sites in Australia and New Zealand.

Reva said the 125-patient trial began in Brazil, Germany and Poland earlier this year to provide the data to apply for Conformité Européenne (CE) mark registration.

The company said that the Rezolve2 was a drug-eluting fully bioresorbable scaffold designed to provide the benefits of a permanent metal drug-eluting stent, with the advantage of resorbing from the body when it was no longer needed and allowing the artery to return to its natural function.

Reva said the first Australian patient implant was performed by at Sydney's St Vincent's Hospital by the director of cardiac catheterization Dr David Muller, the trial's co-principal investigator.

"I am very intrigued by the potential clinical benefits that may be realized with the shift from permanent metal stents to temporary scaffolds that dissolve from the body," Dr Muller said.

"Reva's device is unique among bioresorbable scaffolds in that it offers ease of inflation and complete scaffold visibility under x-ray," Dr Muller said.

The company said it expected enrollment at up to 30 sites, to be completed by the end of September 2013.

Reva was unchanged at 56 cents.

GENETIC TECHNOLOGIES

Genetic Technologies says it had a settlement and release agreement with the Chicago, Illinois-based Reproductive Genetics Institute relating to its non-coding DNA patents.

Genetic Technologies said that in August 2012 it began legal proceedings against Reproductive Genetics Institute in the US District Court for the Northern District of Illinois, Eastern Division under its US assertion program (BD: Aug 30, 2012).

The company said that a final settlement had been reached with Reproductive Genetics Institute and it would dismiss the law suit.

Genetic Technologies said the commercial terms of the agreement were covered by formal confidentiality provisions and could not be disclosed.

Genetic Technologies was up half a cent or 5.6 percent to 9.5 cents.

SIRTEX MEDICAL

Hunter Hall Investment Management has reduced its substantial holding in Sirtex from 11,609,741 shares (20.82%) to 11,040,370 shares (19.80%).

The Sydney-based Hunter Hall said it sold 569,371 shares between June 20 and 25, 2013 for \$6,790,351 or an average price of \$11.93 a share.

Earlier this month, Hunter Hall sold 803,305 shares for \$8,669,941 or an average price of \$10.79 a share (BD: Jun 6, 2013).

In May, Hunter Hall reduced its substantial holding in Sirtex from 13,254,180 shares (23.77%) to 12,413,046 shares (22.26%) (BD: May 29, 2013).

Hunter Hall has been a long term shareholder in Sirtex and in 2009 increased to 16,684,884 shares (29.92%) when the company was at \$2.35 a share (BD: Mar 5, 2009).

In November 2011, Hunter Hall reduced to 15,537,884 shares (27.86%) when Sirtex was trading at \$4.10 (BD: Nov 50, 2011) and last year reduced to 14,979,180 shares (26.86%) percent when Sirtex was trading at \$7.35 a share (BD" Aug 7, 2012).

Sirtex fell 15 cents or 1.2 percent to \$11.98 with 152,388 shares traded.

GENETIC TECHNOLOGIES

Genetic Technologies founder and major shareholder Dr Mervyn Jacobson is expected to appear in Victoria's Supreme Court for a procedural hearing in September 2013.

An officer of the Supreme Court told Biotech Daily that the matter of the Commonwealth Director of Public Prosecutions versus Mervyn Jacobson had been set for a directions hearing before Justice Elizabeth Curtain on September 16, 2013.

An officer of the Commonwealth Director of Public Prosecutions told Biotech Daily that Dr Jacobson was charged with 39 counts of market manipulation and two charges of conspiring to commit a Commonwealth offence namely market manipulation (BD: Nov 27, 2012).

PHOSPHAGENICS

Phosphagenics has requested a trading halt pending an announcement in relation to potentially material "irregularities in ... its invoicing and accounting records."

Trading will resume on July 2, 2013 or on an earlier announcement.

Phosphagenics last traded at 13 cents.