



Biotech Daily

Wednesday December 16, 2009

Daily news on ASX-listed biotechnology companies

- * **ASX DOWN, BIOTECH EVEN: MESOBLAST UP 10%; PRANA DOWN 7%**
- * **JUDGE: FERMISCAN'S LEON CARR 'DISHONEST', REFERRED TO ASIC**
- * **CORRECTION: FERMISCAN**
- * **IMMURON BEGINS ISRAELI PHASE II INSULIN RESISTANCE TRIAL**
- * **BIOTA PLEADS SCHULTZ TO ASX 27% PRICE FALL QUERY; ATO RULING**
- * **WILSON HTM TAKES 5.4% OF NANOSONICS**
- * **BIOTECH CRCS WIN LION'S SHARE OF \$130m; 2010 ROUND OPENS**
- * **VIRAX \$1.3m RIGHTS ISSUE 50% UNDERWRITTEN**
- * **CHINESE PARTIES FAIL TO PAY, COMPLETE AGENIX DEED**
- * **USCOM APPOINTS PROF DAVID BENNETT MEDICAL ADVISOR**
- * **SIRTEX WINS DELOITTE ASIA PACIFIC GONG**

MARKET REPORT

The Australian stock market fell 0.25 percent on Wednesday December 16, 2009 with the S&P ASX 200 down 11.6 points to 4661.9 points. Thirteen of the Biotech Daily Top 40 stocks were up, 12 fell, 10 traded unchanged and five were untraded.

Mesoblast was best, up 12 cents or 9.6 percent to \$1.37 with 451,108 shares traded, followed by Biota up 19 cents or 8.1 percent to \$2.53 with 2.4 million shares traded.

Prima and Tissue Therapies both climbed 7.1 percent to 15 cents; Alchemia and Compumedics were up more than five percent; Nanosonics was up 3.6 percent; Impedimed and Viralytics rose more than two percent; with Bionomics Pharmaxis and Starpharma up more than one percent.

Prana led the falls, down one cent or 6.7 percent to 14 cents with 47,135 shares traded. Genetic Technologies and Sunshine Heart lost more than five percent; Phosphagenics fell 4.5 percent; Phylogica was down 3.7 percent; Chemgenex shed two percent; with Cellestis, Genera, Living Cell, Psivida and QRX down more than one percent.

[NEW SOUTH WALES SUPREME COURT](#)

The New South Wales Supreme Court says former Fermiscan director Leon Phillip Carr “committed numerous breaches of the law” and referred the matter to the Australian Securities and Investments Commission for further action.

Mr Carr and others have been ordered to pay or compensate Resource Equities Limited more than \$2.3 million.

In the complex and long running matters of Resource Equities Limited (subject to deed of company arrangement) versus John Hilton Garrett and four others and Resource Equities versus Leon Phillip Carr and three others Justice Robert McDougall found that “Messrs Carr and Purves have committed numerous breaches of their statutory and general law obligations as directors of REL. Many adjectives could be used to describe most of those breaches: gross, culpable and dishonest, to give but three examples”.

Under the heading ‘Australian Securities and Investments Commission’ Justice McDougall said: “I do not think that it is appropriate for the matter to finish with the judgment ... of a civil court. In my view, there is a significant public interest in referring the breaches to the appropriate authority, for consideration of further action that might be taken.”

Justice McDougall ordered that Messrs Carr and Purves were liable to indemnify or compensate REL in the following amounts:

- (1) in respect of overpayments to directors: \$368,500;
- (2) in respect of the loans to Mr Garrett: \$242,035;
- (3) in respect of the Fox transaction: \$682,000;
- (4) in respect of ... payments from the sale of the Asia Iron shares: \$810,702;
- (5) in respect of litigation expenses: \$191,004;
- (6) in respect of the amount paid to Mr Crouch: \$25,000; and
- (7) in respect of the amounts paid to Mr Carrello: an amount to be determined.

Justice McDougall made a number of further orders relating to costs and interest and reserved consideration of the amount of indemnity or compensation in respect of the costs and expenses of Mr Carrello’s administration.

“I direct the Prothonotary of the Court to forward a copy of these reasons to the proper officer of the Australian Securities and Investment Commission (ASIC) for consideration,” Justice McDougall said.

“I direct further that ASIC is to be provided, on request, with access to or copies of the affidavits that were read, the transcript and the exhibits that were admitted into evidence,” Justice McDougall said.

Summarizing the case Justice McDougall said REL made six separate claims including that Messrs Carr, Purves and Thomas resolved to pay themselves remuneration in excess of the limit fixed pursuant to REL’s constitution. He said REL alleged that Messrs Carr, Purves and Thomas resolved that Messrs Carr and Purves should be paid amounts for “extra services or ... special exertions” (such payments being expressly permitted by REL’s constitution) which were totally unjustified.

Other claims related to further payments to directors and that Messrs Carr and Purves caused REL to make two unsecured loans to a Mr Garrett, worth more than \$358,000.

[CORRECTION: FERMISCAN](#)

Last night’s edition gave an incorrect website address for the administrator’s report to Fermiscan creditors.

The correct address is www.woodgateco.com.au.

The mistake was made by the administrators. No sub-editors were hurt in making this correction.

IMMURON

Immuron says it has formal approval to begin a clinical trial of its antibody-based formulation for insulin resistance at the Hadassah Medical Centre in Jerusalem. Immuron said that insulin resistance was related to metabolic syndrome which affected about nine percent of the Western world with few treatment options currently available to physicians.

According to its website, the International Diabetes Federation says the latest definition of metabolic syndrome is a person with central obesity plus any two of four other indicators: raised triglyceride levels; reduced HDL cholesterol; raised blood pressure; and/or raised fasting plasma glucose more than 100 mg/dL (5.6 mmol/L).

Immuron said that its bovine antibody based compound had a high safety profile and would assist in meeting unmet needs in the multi-billion dollar market for the treatment of conditions linked by insulin resistance.

The recruiting process will begin in January 2010, with the trial commencing by March and scheduled for completion by mid-2010.

Immuron said the trial would study 10 participants with "common manifestations of metabolic syndrome; in particular, non-alcoholic steato-hepatitis (a subset of fatty liver disease) and type 2 diabetes".

The company said that the trial would measure the effectiveness of Immuron's oral formulation in improving a range of key markers, such as insulin resistance, glucose metabolism and blood lipid levels.

Immuron said positive results from its antibody-based oral immunotherapy in animal models of fatty liver disease "generated a great deal of scientific interest" when presented at a conference of the American Association for Study of Liver Disease in Boston (BD: Nov 2, 2009).

Immuron fell 0.2 cents or 2.8 percent to 6.9 cents.

BIOTA HOLDINGS

Biota says it is not aware of any information that has not been announced which, if known, could be an explanation for recent trading in its securities.

The ASX said the company's share price fell 85 cents or 26.98 percent from \$3.15 on December 4, 2009 to \$2.30 on December 15, 2009, along with an increase in trading volumes.

Biota said it expected to report "a significantly improved profit before tax for the half year to December 31, 2009 than the \$10.1 million reported for the half year to December 31, 2008".

Separately, Biota said the Australian Taxation Office released a class ruling in on its recent return of capital of 11.18 cents a share.

The company said the ATO commissioner concluded that for taxation purposes 4.92 cents for each share would be regarded as an unfranked dividend and 6.26 cents for each share would be regarded as a capital return.

Biota said a full copy of the class ruling was at its website and the ATO website.

Biota was up 19 cents or 8.1 percent to \$2.53 with 2.4 million shares traded.

NANOSONICS

Wilson HTM Investment Group and associates have become a substantial shareholder in Nanosonics with a holding of 10,568,609 shares or 5.37 percent.

Nanosonics climbed two cents or 3.6 percent to 58 cents.

FEDERAL GOVERNMENT, COOPERATIVE RESEARCH CENTRE

Wound management and vision Cooperative Research Centres have won \$50 million of \$130 million in the latest round of CRC funding.

Federal Innovation Minister Senator Kim Carr said the Cooperative Research Centres “address Government priorities, including economic disadvantage in remote communities”. Senator Carr said he congratulated “all seven groups that were successful in what has been a highly competitive round”.

The successful biotechnology applicants were the Wound Management Innovation CRC which was awarded \$28 million to improve wound healing and quality of life for people with wounds, and provide cost-effective wound care that lessens the burden on the healthcare system and the Vision CRC which was awarded \$22 million to deliver vision care treatments and products for sufferers of eye problems like myopia and cataracts. The CRC for Environmental Biotechnology was awarded \$4 million to commercialize biotechnologies that use natural biological systems to transform waste into useful products and green energy, and rapid microbial monitoring platforms.

Other recipients were the CRC for Advanced Composite Structures (\$14m); the CRC for Infrastructure and Engineering Asset Management (\$12m); the CRC for Optimising Resource Extraction (\$17.5m); and the CRC for Remote Economic Participation (\$32.5m). “I’m proud that the CRC Program, which was established by the Hawke Labor Government in 1990, remains the Government’s premier program for building long term collaborative partnerships,” Senator Carr said.

“These partnerships play a crucial role in addressing Australia’s innovation needs and delivering social, environmental and economic outcomes for all Australians.”

Separately the Federal Government announced the opening of the 2010 CRC Program selection round, “with a key focus on manufacturing and social innovation”.

Senator Carr said he was “especially calling for applications in two priority areas - manufacturing innovation and social innovation”.

“Manufacturing innovation can focus on traditional areas such as automotive, textile, footwear and clothing industries, or in new and emerging industries such as scientific and medical instruments, specialist engineering, aerospace, and advanced materials,” Senator Carr said.

The Department of Innovation, Industry, Science and Research will conduct information sessions in February and March 2010 and further information on the selection round will be available at www.crc.gov.au. Applications are due by July 2, 2010.

VIRAX HOLDINGS

Virax says its one-for-five non-renounceable rights issue to raise \$1,306,000 at five cents a share is 50 percent underwritten

Virax said that the offer closes on January 1, 2010, but two parties including one related to director Dr Albert Ting had offered to take up to \$650,000 shortfall shares of which the Dr Ting-related company has offered to take \$500,000 of shares.

Virax said that there were also unlisted options to be issued on the basis of one option for every two shares committed under the agreements.

On the basis of these commitments, the company said it would issue 6.5 million unlisted options exercisable within the next 12 months at 10 cents per share.

Virax was unchanged at 6.1 cents.

AGENIX

Agenix says a proposed deed of variation for a final settlement has not been signed by all the relevant Chinese parties and RMB10,500,000 due by December 11 was not paid. Shanghai Rui Guang Bio-Pharma Development Co (SHRG) was to pay the total amount of RMB44,000,000 (\$A7 million) by November 30, 2009 (BD Apr 17; Dec 2, 2009). Agenix said it did not receive the balance of proceeds due by November 30, 2009. The deed of variation was intended to implement a revised timetable for payments, but Agenix says this agreement was also not honored. Agenix said the deed of variation was intended to vary the commercial terms of the final and binding settlement to resolve the dispute with the Peoples Republic of China bio-pharmaceutical investments and was "therefore void". Agenix company secretary Jeffrey Luckins told Biotech Daily the company was continuing to negotiate with the Chinese parties. Agenix is in a suspension and last traded at 1.7 cents.

USCOM

Uscom has appointed London's St Thomas' Hospital honorary consultant physician Prof David Bennett to its medical advisory board. Uscom said Prof Bennett had a 30 year association with Doppler technology and was "an acknowledged world expert in cardiovascular monitoring and the editor of the cardiology section of Critical Care, one of the leading international journals of critical care medicine". The company said Prof Bennett would contribute to the guidance of clinical research and new product developments. Prof Bennett was director of intensive care at London's St George's Hospital for 30 years, and was involved in techniques for monitoring and managing blood circulation particularly in high risk surgical patients. He is a visiting professor to Kings College, London. Uscom was untraded at 76 cents.

SIRTEX MEDICAL

Sirtex says the Deloitte Technology Fast 500 Asia Pacific Awards has acknowledged it as "one of the fastest growing technology companies in the Asia region". Sirtex said it was ranked 310th in the Asia Pacific Region delivering growth of 138 percent over the past three years and was one of 60 Australian companies and one of two Australian medical technology companies honored. The company said that In November 2009, it was ranked the 46th fastest growing technology company in Australia as part of the Deloitte Technology Fast 50 for the second consecutive year. Sirtex said the Fast 500 Asia Pacific program ranked technology companies across the Asia Pacific based on fiscal year revenue growth rates over the last three years. Sirtex manufactures and markets its selective internal radiation therapy SIR-Spheres for the treatment liver cancer, delivering high doses of radiation directly to the tumors. Sirtex fell six cents or 0.9 percent to \$6.75.