



# Biotech Daily

Friday September 10, 2010

*Daily news on ASX-listed biotechnology companies*

- \* **ASX DOWN, BIOTECH UP: OPTISCAN UP 7.5%; NOVOGEN DOWN 7%**
- \* **VALE DR MIKE DALLING**
- \* **EDITORIAL: NON-DISCLOSURE IS SELF-DEFEATING**
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- \* **HEALTHLINX TAKES PROF MICHAEL QUINN TO COURT ON OVPLEX TEST**
- \* **MESOBLAST TELLS ASX: OLD NEWS MAY HAVE PUSHED PRICE TO \$2.48**
- \* **AGENIX RESUMES TRADE UP 106%**
- \* **CM CAPITAL CEASES SUBSTANTIAL IN CATHRX**
- \* **BONE REQUESTS FUNDING TRADING HALT**

## MARKET REPORT

The Australian stock market fell 0.48 percent on Friday September 10, 2010, with the ASX200 down 21.9 points to 4560.3 points.

Thirteen of the Biotech Daily Top 40 stocks were up, 11 fell, nine traded unchanged and seven were untraded.

Optiscan was best, up 0.3 cents or 7.5 percent to 4.3 cents with 45,000 shares traded, followed by Tissue Therapies up 1.5 cents or 7.1 percent to 22.5 cents with 318,500 shares traded.

Starpharma climbed 6.7 percent; Mesoblast and Prima were up more than five percent; Immuron and Phosphagenics rose more than two percent; with Alchemia, Phylogica and QRX up more than one percent.

Novogen led the falls, down one cent or 7.4 percent to 12.5 cents with 122,635 shares traded, followed by Circadian down 7.3 percent to 57.5 cents with 14,952 shares traded.

Bionomics and Virax lost more than three percent; Genera and Living Cell shed more than two percent; with Biota, Cochlear, CSL, Heartware and Pharmaxis down one percent or more.

## [DR MICHAEL DALLING AM: 14.12.1945 - 8.9.2010](#)

Dr Mike Dalling died suddenly on Wednesday September 8, 2010 while attending a Rotary function to give him funds the group had raised for the Lighthouse Foundation

Among the many jobs he shouldered, Mike was the volunteer chair of the finance committee for Lighthouse which aims to end youth homelessness.

Industry organization, Ausbiotech, said that the biotechnology community “joins family and friends in mourning the loss of Dr Mike Dalling, a pioneering biotechnology scientist and business leader in Australia”.

The organization said that Mike was a strong supporter of Ausbiotech and its work and the companies in which he was involved were Ausbiotech members.

“His contribution to research and development of biotechnology and its commercialization in Australia was well-known and highly respected,” Ausbiotech said.

Dr Dalling worked for many years on the transfer of gene-technology into floriculture and headed, as managing director, one of Australia’s first biotechnology companies, Calgene Pacific which worked on producing the previously elusive blue rose and carnation. The company later became Florigene, which has recently commercialized the blue carnation.

Dr Dalling led the Victorian Government’s Strategic Industry Research Foundation (SIRF) for many years, where he assisted Victoria’s manufacturing industries.

Ausbiotech said that under his leadership, SIRF coordinated the creation of the Australian concept car, pioneered the creation of value from research initiatives and developed a number of alternative business models, including ceramic fuel cells.

While at SIRF, it was with his influence that Victoria became a major supporter of the Cooperative Research Centre initiative commenced during the Hawke Government and which continues to the present.

As chairman, director and in advisory roles, Dr Dalling contributed to many public, private and not-for-profit organizations, including Nufarm, the Lighthouse Foundation, the Medical Imaging CRC, Victoria University, Benitec, Xceed, PolyNovo, Boron Molecular, Neural Diagnostics, the Birchip Cropping Group, Cougar Energy and Biomass Conversion Technologies.

He had also spent many years as a senior academic in the School of Agriculture at Melbourne University.

Ausbiotech chief executive officer Dr Anna Lavelle said “the biotechnology, science and business communities alike have experienced a great loss with the passing of Mike Dalling”.

“His legacy remains in the companies, organizations and in the industry that he worked tirelessly to develop for the public good,” Dr Lavelle said.

## [BIOTECH DAILY EDITORIAL: NON-DISCLOSURE](#)

When a child accidentally burns down the garden shed and then hides at a neighbor's house hoping Mum and Dad don't notice, it generally doesn't pan out that way.

Today Biotech Daily reports on the conflicts of interest at the Federal Government's great innovation-funding body Commercialisation Australia and Healthlinx obtaining court orders to silence former adviser Prof Michael Quinn from making claims about the Ovplex test.

Neither Commercialisation Australia nor Healthlinx wanted you to know this.

Nowhere in Innovation Minister Senator Kim Carr's media releases did he say that there were potential conflicts of interest at Commercialisation Australia in deciding how to spend the pittance of taxpayers' dollars allowed for innovation.

Biotech Daily was forced to file a Freedom of Information application to find out those disclosures that Commercialisation Australia decided were material. There were others that it decided "proved immaterial". Is that so? We'll never know if they don't tell us.

Asked to report conflicts of interest as they arise, Commercialisation Australia has sought protection under the shield of the Freedom of information Act saying it does not have to provide documents that do not yet exist. But it could make the commitment if it so wanted. Thus, Biotech Daily will have to invest \$30 every few months - to borrow a phrase from former Australian Democrat leader Don Chipp – "to keep the bastards honest" about spending taxpayers' funds. This is reprehensible.

Healthlinx, for reasons Biotech Daily cannot fathom, decided not to tell the market that it was in a legal dispute with Prof Michael Quinn who was saying serious things about the company's lead technology - and if that's not material, we don't know what is.

Healthlinx chairman Prof Greg Rice told Biotech Daily that legal counsel had told the company they did not need to say anything about the matter to the ASX, which is probably correct, because Listing Rule 3.1 effectively says matters are material only if the company thinks they are material. Humpty Dumpty concurs. Countless times, the ASX media unit has told Biotech Daily that it is up to the company to decide what is material.

But these are just today's attempts at deception through omission. In journalism, sins of commission – deliberately making wrong statements – are equal to sins of omission – leaving out important facts. So, if Joe Bloggs was arrested by police, it is important to report that he was later released without charge and received an apology.

The impact of Commercialisation Australia's secrecy and Healthlinx error of judgment in not mentioning the court case is that we focus far more attention on them than if they had merely told the truth (BD: Jan 19, 2007; Jul 21, 2010).

This is the third warning to the biotechnology sector, so please pay attention: One sentence in a three page media release can save a lot of bother.

**David Langsam**  
**Editor**

## COMMERCIALISATION AUSTRALIA

In July, Biotech Daily was told by Athlomics that Commercialisation Australia awarded the company \$250,000 for its Septicyte product and that Athlomics director Dr Laurie Hammond was the chairman of Commercialisation Australia.

Biotech Daily reported at that time that Dr Hammond followed the appropriate procedures in disclosure of potential conflicts of interest and that it should have been noted in the media release from Innovation Minister Senator Kim Carr, which it was not.

Biotech Daily asked Commercialisation Australia to provide details of all decisions that involved personnel disqualifying themselves from applications for taxpayer-funded grants and the organization refused to assist.

Following a Freedom of Information application by Biotech Daily, Commercialisation Australia chief executive officer Doron Ben-Meir released a document citing “conflicts of interest declared prior to and after the receipt of meeting papers”.

The documents state the respective members’ names and the project but not the nature of the interest disclosed.

The cover sheet says Section 22 of the Freedom of Information Act 1982 “allows for the removal of information which is not relevant to the request”.

“The information that has been removed includes projects for which the potential conflict proved immaterial and, therefore, irrelevant to the request,” Mr Ben-Meir said.

The board comprises Mr Ben-Meir; chairman Dr Hammond who is the co-founder and director of IQ Capital Management; along with Australian Private Equity and Venture Capital Association (AVCAL) chief executive Dr Katherine Woodthorpe; former chairman and managing director of Johnson & Johnson Research Dr Susan Pond; Swinburne (University) Ventures chief executive officer Dr Bruce Whan; Commonwealth Scientific and Industrial Research Organisation’s general manager of intellectual property, licencing and technology transfer Jan Bingley; and Australian Manufacturing Workers’ Union industry and economic adviser Nixon Apple, a trustee of Australian Super.

They declared potential conflicts of interest as follows:

Dr Hammond: Quintessence Labs, Kord Defence, Athlomics; Softlink International; Sky Technologies;

Mr Ben-Meir: QS Semiconductor Australia, Glycan Biosciences, Modulek;

Ms Bingley: Simmersion Holdings, Sunengy, Biofiba, Adalta, Rainbow Bee Eater, Biotel Fuels, Joinlox, Lovato Autogas, Ewater Innovation (all are CSIRO collaborations);

Dr Pond: Quintessence Labs;

Dr Whan: Treadstone Enterprises, Joinlox;

Dr Woodthorpe: University of Technology Sydney – Prof Hung Nguyen; Crucible Carbon Pyrolysis;

Mr Apple: Nil.

## HEALTHLINX

Former Healthlinx scientific adviser Prof Michael Quinn has made undertakings not to discuss aspects of Healthlinx Ovplex ovarian cancer test until September 30, 2010. Documents at the Federal Court in Melbourne show that the Healthlinx began the legal action claiming misleading or deceptive conduct against Prof Quinn on September 1, 2010, with hearings held on September 2 and 7, 2010.

The company did not announce the legal action to the ASX.

On September 7, 2010 Justice Richard Tracey noted agreement by Healthlinx to abide by decisions of the Court.

The Court documents said the respondent (Prof Quinn) "undertook to the Court that until 5pm on September 30, 2010, that he will not, whether personally or by his servants or agents or otherwise, republish, or cause to be republished, or permit to be republished or acquiesce in the republication to any person of statements are in substance or to the effect that:

the applicant is not the owner of the intellectual property rights in Ovplex;

that the respondent, Women's Cancer Foundation and/or the Ovarian Cancer Institute have or are entitled to have an interest in the intellectual property rights in Ovplex;

the Ovplex test was based on flimsy evidence;

claims that Ovplex could save hundreds of lives were patently absurd;

Ovplex needs to be taken off the market until its efficacy is provided;

are disparaging of the effectiveness of Ovplex as a diagnostic panel for use in the detection of ovarian cancer generally and when compared with CA125, save for the purpose of obtaining legal advice or in relation to the conduct of this proceeding".

The case has been adjourned to September 30, 2010 for further hearing.

Healthlinx was unchanged at 9.2 cents.

## MESOBLAST

Mesoblast has told the ASX that the release of news since August 16, 2010 might have pushed its share price 14.8 percent to \$2.48.

Mesoblast told the ASX that it was not aware of any information it had not announced which, if known, could explain recent trading in its securities.

The ASX said the company's share price rose from \$2.16 on September 9, 2010 to \$2.48 at the time of writing today. The ASX did not note an increase in trading volume.

Mesoblast said it had released news on August 16 that it had a positive meeting with the US Food and Drug Administration and that on August 23 it announced the extraordinary general meeting to acquire Angioblast.

Mesoblast said the announcement was accompanied by an independent experts report that "estimated fair market value of a share in the merged entity to be between \$2.35 to \$2.65".

Mesoblast closed up 12 cents or 5.6 percent at \$2.28 with 686,043 shares traded.

## AGENIX

Agenix has resumed trading after a two-year voluntary suspension, closing up 1.8 cents or 105.9 percent to 3.5 cents with three million shares traded.

### CATHRX

CM Capital Investment has ceased its substantial holding in Cathrx.

CM Capital sold 12,783,201 shares for \$1,789,648 or 14 cents a share.

At the time of publication it was unclear whether or not CM Capital retained an interest in Cathrx.

Cathrx was untraded at 18 cents.

### BONE MEDICAL

Bone Medical has requested a trading halt pending an announcement on funding.

Trading will resume on September 14, 2010 or on an earlier announcement.

Bone was last traded at 6.5 cents.