



U.S. Department of Justice

Civil Division

Brian M. Simkin

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DJ Nos. 154-00-274, -292, 01-434

Washington, D.C. 20530

April 20, 2006

BY FACSIMILE AND OVERNIGHT MAIL

James B. Re, Esq.
Sally & Fitch
225 Franklin Street
Boston, Massachusetts 02110
Tele: (617) 747-7878
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Re: Sweet, et al. v. United States, Fed. Cl. No. 00-274C

Dear Mr. Re:

Enclosed is defendant's Offer of Judgment, pursuant to Rule 68 of the Rules of the United States Court of Federal Claims ("RCFC 68"), in the amount of \$520,000, in full settlement of Case No. 00-274C, with each party to bear its own costs, attorney fees, and expenses. This Offer of Judgment applies to all claims in Case No. 00-274C, including all claims asserted by Elizabeth Dutton Sweet and Frederick H. Grein, Jr., in Their Capacities as Executors under the Will of William H. Sweet, M.D., for the use and benefit of Amerisure Insurance Company (collectively, the "plaintiffs"). Additionally, this Offer is conditioned upon plaintiffs' agreement not to oppose a motion, should one be filed by defendant, to vacate the court's decision reported at Sweet, et al. v. United States, 53 Fed. Cl. 208 (2002).

As I am sure you are aware, RCFC 68 provides that if, within 10 days after the service of the offer, plaintiff serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the Clerk of the United States Court of Federal Claims would then enter judgment. If plaintiffs accept this Offer of Judgment, payment is generally made by the Department of the Treasury within four to six weeks.

If plaintiffs do not accept this Offer of Judgment within 10 days, the Offer is deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine costs. As you may know, if plaintiffs do not accept this Offer and the case proceeds further, plaintiffs will be liable to pay all costs incurred by defendant after the making of this offer unless plaintiffs obtains a final judgment that is more favorable than the Offer. In this event, defendant would hold plaintiffs liable for the costs of this litigation, including costs of attorney time and travel in connection with trial, as well as the time and expenses of our paralegal.

If you have any questions about this matter, please contact me at (202) 514-4325.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Simkin". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping tail.

BRIAN M. SIMKIN
Assistant Director
Commercial Litigation Branch
Civil Division

Enclosure

cc: Marjorie Nordlinger, Esq.
Marc Johnston, Esq.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ELIZABETH DUTTON SWEET and)
FREDERICK H. GREIN, JR., in their)
capacities as Executors under the will of)
William H. Sweet, M.D.,)
)
and)
)
MASSACHUSETTS INSTITUTE)
OF TECHNOLOGY,)
)
and)
)
MASSACHUSETTS GENERAL)
HOSPITAL,)
)
Plaintiffs,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)

Nos. 00-274C, 00-292C, 01-434C
(Consolidated)
(Judge Firestone)

OFFER OF JUDGMENT IN CASE NO. 00-274C

Pursuant to Rule 68 of the Rules of the United States Court of Federal Claims, defendant makes this offer of judgment to allow judgment to be taken against defendant in the amount of \$520,000, in full settlement of Case No. 00-274C, Elizabeth Dutton Sweet and Frederick H. Grein, Jr., in Their Capacities as Executors under the Will of William H. Sweet, M.D. v. United States, with each party to bear its own costs, attorney fees, and expenses. This Offer of Judgment does not apply to, and shall have no effect upon, Case Nos. 00-292C and 01-434C.

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General



DAVID M. COHEN
Director
Authorized Representative of
the Attorney General



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April 10, 2006

Attorneys for Defendant