

# Dr. W. Scott Harkonen Files Request That DOJ Correct False Statement In 2009 DOJ Press Release

## FOR IMMEDIATE RELEASE

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SAN FRANCISCO, CA – Today, attorneys for founder and former CEO of InterMune, Inc. and medical researcher W. Scott Harkonen, MD, filed a request under the Information Quality Act (IQA) seeking to have the Department of Justice (DOJ) correct a false and misleading statement in a press release issued by the DOJ in September 2009. The DOJ issued its press release after a jury found Dr. Harkonen guilty of issuing a press release on behalf of InterMune in 2002 that DOJ claimed contained false conclusions about the meaning of new and preliminary data concerning the drug Actimmune. The accuracy of the data reported in the InterMune release was not disputed.

Dr. Harkonen's new IQA Request addresses the following statement in the DOJ's 2009 press release:

*"The actions of this defendant served to divert precious financial resources from the VA's critical mission of providing healthcare to this nation's military veterans."*

As described in Harkonen's new IQA Request, this statement is false. During recently completed sentencing proceedings, the U.S. District Court for Northern California concluded that the DOJ, despite multiple opportunities, was unable to prove that the 2002 press release caused a financial loss to any private insurer, individual, or federal agency, including the Veterans Administration (VA). In addition, documents withheld by the VA throughout Dr. Harkonen's trial, and finally disclosed only during the sentencing proceedings, confirmed that the VA in particular suffered no financial loss as a result of the 2002 press release.

This is the second IQA Request for Correction that Dr. Harkonen's attorneys have filed. The first IQA Request addressed a separate false and misleading statement in the same DOJ September 2009 press release, that Dr. Harkonen had "falsified test results." This statement is false because the DOJ has repeatedly conceded that all of the clinical trial results reported in InterMune's 2002 press release are accurate, and that the DOJ is prosecuting Dr. Harkonen only for the interpretation of those results in the 2002 press release.

In response to this first IQA Request, the Justice Department "agreed that he did not change the data," but nevertheless refused to retract or correct its press release. The DOJ takes the position that the requirements of the Information Quality Act do not apply to the DOJ's own press releases.

"For the Department of Justice to pursue a felony conviction over the statements contained in a press release, while simultaneously claiming that it is free to perpetuate false statements in its own press releases, is an unconscionable double standard," explained Mark E. Haddad, Esq., of Sidley Austin, LLP, the lead attorney in Harkonen's case. "Our society is based upon the principle of equal justice under the law. For a government agency to exempt itself from speaking truthfully to the public sets a dangerous precedent, and one that directly conflicts with the principles that Congress established with the IQA."

Both IQA requests are part of Dr. Harkonen's effort to correct the record related to his case.

"American citizens have the right to expect their government to be truthful in their public statements," said Dennis Riordan of Riordan & Horgan, another member of Dr. Harkonen's legal team. "These sorts of unsubstantiated and reckless assertions damage both the victim and the public's trust in its government institutions. It is our hope that the DOJ will take appropriate steps to correct this injustice."

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